



Widening La Grieta In Argentina: How Cristina And Nestor Kirchner's Power-Consolidating Policies Leave Behind A Social Rift

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In December 2015, Argentina elected Mauricio Macri as their president. He inherited a daunting task: close the societal rift, or la grieta,¹ which the previous presidents, Néstor Kirchner (2003–2007) and Cristina Fernández de Kirchner (2007–2015), left behind. The Kirchners have one of the most contentious legacies in the recent history of Latin America. One part of the population views them as saviors, while the other believes they left behind a country on the brink of crisis. This paper attempts to answer the question: why did the Kirchner presidencies leave a legacy of a divided Argentinian society rather than a consolidated one? There are many reasons why la grieta widened under the Kirchners', including media wars and a confrontational foreign policy. However, this paper argues that the three biggest reasons why la grieta grew in Argentina are: institutional tampering, especially in the judicial branch, corruption, and economic mismanagement.

INTRODUCTION

Cristina Fernández de Kirchner's popularity was never more evident than it was in the 2011 Argentinian presidential election when she won 54.1% of the popular vote.² Indeed, the Kirchners have been popular in Argentina ever since Néstor became president in 2003, when they led the miraculous recovery of the economy. As the chapter of the Kirchners' regime comes to a close, Cristina remains immensely popular with the lower classes, despite her overall dwindling popularity. A majority of Argentinians (60%) voted to discontinue the *kirchnerista* brand of politics in the first round of the 2015 presidential elections, but this outcome does not tell the whole story. A societal rift, or as Argentinian journalist Jorge Lanata coined it, *la grieta*, has continually widened – especially during the latter part of Cristina's regime. Argentinian society is completely polarized amidst Cristina's "us versus them," friends or enemies rhetoric. Why is it then, that Néstor and Cristina Fernández de Kirchner's presidencies leave a legacy of a divided Argentinian society rather than a consolidated one, which is the supposed aim of *kirchnerismo*? There are a multitude of reasons why this is the case, such as the media wars, a confrontational foreign policy objective, and an ongoing disapproval of the Argentine Pope Francis.

This paper begins by giving some background information on how the Kirchners consolidated their power. It will then focus on the three biggest

reasons *la grieta* has grown in Argentina, especially during Cristina's two-term presidency: 1) institutional tampering, especially in the judicial branch; 2) corruption, with a focus on the Kirchners' wealth accumulation and the non-resolution of corruption cases; and 3) short-sighted economic policies. Overall, Néstor and Cristina Fernández de Kirchner's success in stabilizing Argentina received not only regional – but international – acclaim. Nevertheless, as the Kirchners' popularity soared, so did their power, which they used to extend their grasp over the judicial system and increase the fortunes of bureaucrats friendly to the regime. These actions, along with economic mismanagement, decreased support for Cristina Kirchner and created a gap – or *la grieta* – in Argentinian society that the new president Mauricio Macri, who took office in December 2015, will find challenging to close.

CONSOLIDATING POWER

Elected in 2003, Néstor Kirchner acquired an economy that had defaulted only two years prior. Trust in the presidency was weak not only because of what happened in the economic crisis of 2001 but also because Néstor himself was relatively unknown; in fact, he won the election with only 22.2% of the popular vote because the runner-up, former president Carlos Menem (1990-1998), decided to withdraw from the second round run-off.

The Kirchners helped renew the

belief that an Argentinian government could fight the status quo and inspire hope in *la patria*.³ Almost instantly, their successive governments became populist in nature because of many issues, including but not limited to: the confrontational nature of foreign policy towards the United States, unwavering support for other left-leaning regimes, and active state intervention within free markets.⁴ Their support also increased after legalizing same-sex marriage – making Argentina the first Latin American country to do so – and bringing former military officers of the military *junta* to justice.

Undoubtedly, the miraculous economic recovery is what gave the Kirchners the popular support they used to consolidate power further. During Mr. Kirchner's presidency (2003-2007), the Gross Domestic Product (GDP) grew an average of 9% a year, which included a 52% increase in consumption.⁵ This helped dramatically reduce poverty and unemployment; much of this growth was redistributed to the poorer echelons of society, which is the reason the Kirchners still enjoy the support of many within the lower class.⁶ The economic boom, which occurred under Néstor's presidency, fueled the Kirchners' widespread popular support; it is part of the reason they were so successful in consolidating power and undermining institutional checks and balances.⁷ During a period of spectacular economic performance, it was easy to turn a blind eye to institu-

tional tampering and corruption.

INSTITUTIONAL TAMPERING

Luigi Manzetti argues that in government, "...[the] more institutional checks and balances [that] exist, the more confident citizens may be that their rulers will use caution in exercising their authority."⁸ Certainly, Argentina has a history of weak checks and balances, but the Kirchners certainly have not improved the situation.

One major way the Kirchners meddled with institutions in Argentina, weakening checks and balances, was by implicitly suggesting that the judiciary branch's decisions could only be enforced if approved by the executive.⁹ The best example of this is the Eduardo Sosa and Daniel Peralta polemic. In 1995, while Néstor Kirchner was governor of the Santa Cruz province, he unconstitutionally terminated Eduardo Sosa as attorney general of the province. Sosa fought to file charges against Mr. Kirchner to no avail, but he did manage to file legal charges in 2010 against then-Santa Cruz governor Daniel Peralta for not reinstating him as attorney general.¹⁰ Not only did the court support Sosa's decision, they also suggested Peralta's removal. Cristina Kirchner spoke out against the court's decision and prevented Peralta's removal, demonstrating the power divide between the judicial and executive branches.

A more direct hand in judicial tampering was evident in April 2013 when Cristina Kirchner introduced a

reform of the Council of Magistrates to make it more “democratic.”¹¹ The Council was comprised of members who had been elected internally. The new proposals by Cristina Kirchner and her party,¹² which controlled Congress, called for an increase of members to the Council. More importantly, the Council’s candidates would have been proposed by political parties and then voted upon by the public in general elections.¹³ Cristina Kirchner claimed that these laws would make Argentina more democratic since the judicial branch was the only branch that did not “reflect and represent the people.”¹⁴ She further argued that “neither judges nor lawyers have the preordained right to be elected amongst themselves” because this would imply a freedom from public accountability.¹⁵

Cristina’s critics argued that reforming the Council of Magistrates was an easier way for the executive branch to exert tighter control over the one governmental mechanism that was buffering her policy: the judiciary.¹⁶ Considering that the Frente para la Victoria (FpV) and the general Peronist coalition had a majority in Congress, it would have been easier for them to propose candidates friendly to the government and ultimately stack the court. Argentina already ranked 133rd out of 144 countries for judicial independence. According to Transparency International, these reforms would further damage Argentina’s porous rule of law “by concentrating too much power in the executive,”

thus making the judicial branch hesitant to hold the government accountable – “an essential element of any strong system to fight against corruption.”¹⁷ Gabriel Knaul of the United Nations (UN) echoes this sentiment and adds that this reform “seriously compromises the principles of separation of powers and independence of the judiciary, which are fundamental elements of any democracy and any rule of law.”¹⁸

Although the Supreme Court deemed the reforms unconstitutional, the damage was already inflicted. The populist nature of these reforms, along with Cristina Kirchner’s fiery and combative insistence that they get passed, widened the immense societal gap. In fact, after this fiasco, Cristina’s ratings plummeted to an all-time low of 30%.¹⁹ In addition, this added to the many instances wherein she was viewed in a very negative light internationally, which embarrassed Argentinians. The cold tension between Kirchner and the Supreme Court continued until she left office.

CORRUPTION

The presence of corruption in government is extremely detrimental to a country because it shatters the trust that its citizens hold in their government. Furthermore, it can “discourage investments and set in motion a pernicious cycle of political alienation and distrust.”²⁰ It is very difficult for citizens to express vertical accountability in a democratic way without proper tools within the judicial system

to hold government officials accountable. When vertical accountability cannot be expressed in a democratic manner, the public cannot trust the proper governmental mechanisms to hold elected officials accountable for their actions. Democracy can deteriorate and violence can ensue—a concept not so foreign in Latin America, with Argentina failing to be an exception. In 2013, Argentina ranked as one of the most corrupt countries in a region already notorious for corruption, and 107th in the world.²¹ There is no significant difference in the corruption ratings between the Kirchner governments and the presidents before them; nevertheless, corruption has been blatant and unchecked under the Kirchner governments.

One of the biggest concerns of corruption under the Kirchner mandate deals with their accumulation of wealth from 2003 until present. Specifically, their wealth increased 1172%, from \$7 million Argentinian Pesos (ARS) in 2003 to ARS\$82 million in 2014.²² Considering the annual presidential salary in Argentina is officially slightly more than USD\$100,000,²³ it seems evident that this wealth was likely accumulated through illegitimate means, such as embezzlement or corruption. Cristina Kirchner alleges that their fortune was made through “real estate” but neither Argentinians nor the international community believe that. Even if the Kirchners did make their money through real estate, it probably was not done conventionally. Banks in Liechtenstein, Switzer-

land, and Luxembourg have raised red flags regarding the Kirchners’ bank account transactions.²⁴ One piece of evidence of note was when the Kirchners got a suspiciously profitable deal on a piece of land to be used as a resort in their home province of Santa Cruz. Less than two years later,²⁵ the Kirchners sold “part” of this property for US\$2 million, forty times the price of the original purchase for the entire property.²⁶

Many more corruption scandals have been uncovered involving the Kirchners’ business partners, including the discovery of actual suitcases of money, and bribes for campaign contributions in 2007. The main theme of almost all of the corruption allegations during the Kirchner era is that almost nobody has been convicted. The only person of note not only to be convicted but even to go to trial was Felicia Miceli, who has no personal ties to the Kirchners, a fact that she has adamantly pointed out.²⁷ In other words, Miceli finds it suspicious that she was the only person to go to trial when none of Kirchners’ cronies were indicted, despite evidence against them.

People who have tried to make formal complaints against the Kirchners in court have been silenced, disregarded, or, in the case of Alberto Nisman, have wound up dead. This trend first became apparent in 2004 when Manuel Garrido – the head of the National Investigative Prosecutor Office of the Public Administration (FNIA) – filed six formal complaints to Attorney

General Esteban Righi, regarding the Kirchner government's corruption.²⁸ These allegations involved the aforementioned wealth accumulation, the illegal manipulation of key economic statistics, and the suspicious contracts regarding the management of Argentinian airports, among others.²⁹ Righi, a personal friend of Néstor Kirchner, dismissed the case. Garrido and the FNIA did not relent, however; from 2005 until 2009, the "FNIA filed over one hundred cases of administrative irregularities involving senior administration officials."³⁰ In the end, Righi claimed that the Attorney General's prosecutors "were investigating the same matters" and Garrido was forced to resign. Ultimately, the FNIA became a "lame duck investigator", unable to enforce political accountability.³¹

The recurring lack of horizontal accountability regarding corruption claims was also noted abroad. For example, a United States embassy cable pointed out that "Argentina's corruption scandals frequently make a big splash at the outset, only to dissipate into oblivion due to the languid pace of the 'investigations' and the endless juridical ping-pong to which they are submitted." The cable further pointed out that it takes an average of fourteen years to solve a corruption case in Argentina, "with only fifteen out of the 750 resulting in convictions."³² The presence of constant impunity in Argentina made conditions ripe for the Kirchners and other political actors to continue corrupt and clientelistic

practices without fears of prosecution.

The impunity of the Kirchners' corruption has widened *la grieta* in Argentina more than the corrupt acts themselves. Argentinians are accustomed to corruption, but the Kirchners actively impeded the institutions in place to hold the government accountable, from the judicial system itself, to investigative agencies such as the FNIA, to the people who are denouncing the government on their own. The Argentinians that support the Kirchners argue "innocent until proven guilty," or adopt the saying used ubiquitously in Latin America, "*rouba mas faz*" (Portuguese for: they rob, but they get things done). Conversely, the more educated segment of the Argentinian population is fed up with the fact that Cristina Kirchner has appeared almost invincible in the face of the law.

ECONOMY

Tampering with the judicial system and corruption are both two major reasons why *la grieta* has widened in Argentina under Cristina Kirchner, but economic failures and mismanagement in the last few years are the biggest reason why Argentinians are desperately looking for change. Argentina experienced negative GDP growth in 2014, fiscal accounts remain "in the red," and unemployment continues to rise.³³ These economic factors are easy to identify. However, on a deeper level, Cristina Kirchner has tampered with official economic statistics, creating uncertainty as to

whether inflation statistics are even remotely accurate.³⁴ Furthermore, her nationalistic economic agenda, which features high import taxes and which originally benefited soya producers, now benefits virtually no one. For example, small and large businesses struggle to afford imported capital against the high taxes and their lame duck currency. Meanwhile, the soya farmers who originally benefited from the commodity boom were alienated when Cristina Kirchner imposed a soybean export tax in 2008.³⁵

The Argentinian economy recovered during Néstor Kirchner's presidency in large part due to the commodity boom (2000–2008), and one cannot blame the Kirchners for the fact that this cycle reversed. However, the two can be blamed for the current state of the economy because of their severe mismanagement, which has effectively restrained growth opportunity. Argentina is now a country with limited economic maneuverability. Heritage Fund's Economic Freedom Index has ranked Argentina 169th in the world in terms of economic freedom; Cuba and Venezuela are the only cases ranked lower in the region.³⁶

The Heritage Foundation's Economic Index measures ten quantitative and qualitative factors from four pillars: rule of law, limited government, regulatory efficiency, and open markets. The ten factors are graded on a scale of one to ten.³⁷ The 2015 index rating for Argentina is the worst in its history, and has fallen from 52 (out of 100) to 44.1 since the 2011 elec-

tion. This poor rating is due to state interference, falsified statistics, an inaccurate value of the peso, and price controls "on almost all goods and services."³⁸ The Heritage Foundation underscores the fact that underreporting official inflation statistics encourages enterprises to fix prices and wages at the inflation rate they believe is accurate, which is unknown to all except for those in the inner circle of the government. The Argentinian state regulates everything, from business, to labor, to money and with this increased regulation, "efficiency and productivity growth is sabotaged."³⁹ These many interferences and regulations make Argentina one of the least business-friendly countries in the world, in turn creating a very anti-Kirchner sentiment for those who are trying to expand their business. Juan Addesi, a small business owner, confirmed this in a *New York Times* interview when he argued that he would be "ten times better off" without the restrictions and further, that Cristina Kirchner leaving office is "the best thing that could happen to us."⁴⁰

Damián Díaz, the owner of an advertising firm in Buenos Aires, also shared this sentiment; he argued that the Kirchners' restrictive policies even limited the entrepreneurial creative capacities of Argentinians. According to Díaz, the macroeconomic environment that existed between 2003 and 2007 offered a brief window when people could start businesses with greater ease.⁴¹ However, business obstacles are so strong now that in

2015, Argentina fell to number four in innovation among Latin American countries.⁴² In 2012, Argentina was ranked number two in Latin America, according to the Instituto para el Desarrollo Social Argentino (IDESA)'s innovation index. IDESA argues that Argentina's "lack of innovation" is not because of individuals' lack of creative capacities but rather the "obstacles to open and close a business, to trade with foreign countries, job insecurity, tax pressures . . . high inflation . . . and the destruction of the capital goods market."⁴³ In other words, the Kirchners' poor macroeconomic policies have trickled down to restrict the innovative potential of their own stock of human capital. This situation could cause a new issue in Argentina: the brain drain of their most talented people.

The Heritage Foundation's Freedom Index describes that "in an economically free society, individuals are free to work, produce, consume, and invest in any way they please."⁴⁴ All of these things have been compromised, particularly during the second term of Cristina Kirchner's presidency. This lack of economic freedoms has encouraged people to turn to the underground economy to make ends meet. It is because of this negative welfare effect that one of Cristina Kirchner's harshest critics, the journalist Juan José Llach, argues that beyond the countable fiscal debt that she leaves behind, Argentina has also been endowed with an uncountable "social debt."⁴⁵ Since economic prospects are

so limited and because only a third of youth between the ages of 18 and 25 have a formal salary-paying job, it has become more tempting for young people to engage in narcotrafficking – the seemingly only opportunity where real wages are increasing.⁴⁶ Llach writes that "canceling this social debt is a colossal task but it's also feasible in time." Argentinians hope that Mauricio Macri can "pay back" the fiscal and social debts and help close the societal and economic fissure that Cristina Kirchner created through her policies.⁴⁷

CONCLUSION

On December 10th, 2015, Cristina Kirchner left behind one of the most polarized legacies in the recent history of Latin America. Many in the lower class, who see her as a resurrection of Eva Perón, continue to give her unwavering support. Cristina and Néstor helped the economy's recovery only one year after the humiliating economic crisis of 2001–2002. While half of the population sees her as a savior, the other half sees her as a corrupt, populist politician whose short-sighted economic policies and poor management of the country left it on the tipping point of another crisis. The Kirchners' controlling, consolidating politics almost seemed to have a negative correlation on cohesion in society – the more they pushed on consolidating power with their populist rhetoric, the wider the polarity in society. Why is this the case? Why did Néstor and Cristina Kirchner leave behind a divided society rather than

a consolidated one, which seemed to always be the aim of *kirchnerismo*?

This paper has argued that Argentina's *grieta* has grown because of institutional tampering in the judiciary, corruption and the presence of impunity, and the debilitated state of the economy combined with the Kirchners' mismanagement of it. The Kirchners continuously attempted to undermine checks and balances by sabotaging the independence of the judicial branch, an essential component in horizontal accountability. They successfully hindered or silenced the institutions that held the power to hold them accountable for corruption, effectively committing a direct assault on the rule of law. Finally, when the economy began slowing down after the commodity market bust, Cristina Kirchner managed the economy in a way that not only exacerbated the economic downturn, but also limited growth opportunity, leaving behind an economy that – without careful, proper management reform – was on the cusp of another crisis.

The importance of *la grieta* was best epitomized during the 2015 elections. Voters who chose Mauricio Macri of the Republican Proposal party (PRO), selected a complete separation from kirchnerismo politics, while those who chose Daniel Scioli of the FpV, endorsed its continuation. The results of the run-off served as empirical evidence for Argentina's polarized society: Mauricio Macri won 51.4% of the votes compared to Daniel Scioli's 48.6%.⁴⁸

In one of Mauricio Macri's most famous political advertisements, he characterized present-day Argentina as "*La Argentina de 'O'*" (The Argentina of "Or") – rich or poor, Kirchneristas or anti-Kirchneristas, proclaiming that "they say everything is going well, or they say everything is going bad." This is the type of Argentina that further separates Argentinians and the one that holds back progress. He proposed "*La Argentina de 'Y'*" (The Argentina of "And") as the one needed "to be able to live better and to be united."⁴⁹ The Kirchners left behind a societal rift, or *grieta*, that will be difficult to close. Perhaps Macri's promise of an "*Argentina de Y*" will help close it.

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NOTES

1 Literally means "gap" or "rift" in Spanish.

2 Otto Raul Tielemans, Jr., "The President Wears Prada: The Rise, Fall, and Misconceptions of Cristina Fernández de Kirchner's Presidency," *Council on Hemisphere Affairs*, July 3, 2014, <http://www.coha.org/the-president-wears-prada-the-rise-fall-and-misconceptions-of-cristina-fernandez-de-kirchners-presidency/>

3 Victoria M. Murrillo, "Curtains for Argentina's Kirchner Era," *Current History* 114, no. 769 (2015): 56-61.

4 Luigi Manzetti, "Accountability and Corruption in Argentina During the Kirchners' Era," *Latin America Research Review* 49, no. 2 (2014): 174.

5 Steven Levitsky and María Victoria Murrillo, "Argentina: From Kirchner to Kirchner," *Journal of Democracy* 19, no. 2 (2008), 16.

6 Luigi Manzetti, "Accountability and Corruption in Argentina During the Kirchners' Era," *Latin America Research Review* 49, no. 2 (2014): 174.

7 *Ibid.*, 177.

8 *Ibid.*, 175.

9 Manzetti, "Accountability and Corruption in Argentina During the Kirchners' Era," (2014), 181.

10 *Ibid.*

11 The Council of Magistrates is one arm of the Judicial Branch of Argentina, which, since the amendments of 1994, has the ability to appoint judges across the judicial system as

well as to punish them. Before the proposed reforms in 2013, the Council was comprised of thirteen members: six legislators elected by congress, a representative from the executive, three judges selected from their colleagues, two lawyers voted by their colleagues, and a professor chosen by university deans;

Sabrina Hummel, "Argentina's Judicial Reforms: A Growing Divide," *The Argentina Independent*, April 3, 2013, <http://www.argentinaindependent.com/currentaffairs/argentinas-judicial-reforms-a-growing-divide/>.

12 The Kirchners' party is called *Frente para la Victoria* (Victory Front, FpV)

13 More specifically, the Council of Magistrates would be increased from thirteen members to nineteen, with the addition of more academics and lawyers;

Alejandro Rebossio, "¿De Qué Se Trate la Reforma Judicial de Argentina?", *El País*, April 25, 2013, http://internacional.elpais.com/internacional/2013/04/17/actualidad/1366226590_024943.html

14 Hummel, "Argentina's Judicial Reforms: A Growing Divide".

15 Sabrina Hummel, "The President Takes to Twitter to Defend Judicial Reforms," *The Argentina Independent*, March 4, 2013. <http://www.argentinaindependent.com/currentaffairs/newsfromargentina/the-president-takes-to-twitter-to-defend-judicial-reforms/>.

16 Manzetti, "Accountability and Corruption in Argentina During the Kirchners' Era," (2014), 183.

17 "Argentina and the Judiciary: Subverting the Rule of Law," *Transparency International*, April 18, 2013, http://www.transparency.org/news/feature/argentina_and_the_judiciary_subverting_the_rule_of_law.

18 "Argentina Must Ensure Independence of Its Judiciary – UN Expert," *UN News Centre*, April 30, 2013, <http://www.un.org/apps/news/story.asp?NewsID=44788>.

19 "Argentina's Judicial Reforms: Foiled," *The Economist*, June 21, 2013. <http://www.economist.com/blogs/americas-view/2013/06/argentina-s-judicial-reforms>

20 Manzetti, "Accountability and Corruption in Argentina During the Kirchners' Era", (2014), 193.

21 "Corruption Perceptions Index 2014:

- Results”, *Transparency International*, 2015, www.transparency.org/cpi2014/results.
- 22 Tielemans, “The President Wears Prada: The Rise, Fall, and Misconceptions of CFK’s Presidency,” (2014)
- 23 About ARS900,000 using the official exchange rate.
- 24 Manzetti, “Accountability and Corruption in Argentina During the Kirchners’ Era,” (2014), 191.
- 25 The exact date of this transaction is not completely certain, but sources close to the Kirchners confirmed this transaction did occur via the Lázaro Báez-Kirchner connection.
- 26 Manzetti, “Accountability and Corruption in Argentina During the Kirchners’ Era,” (2014), 187.
- 27 *Ibid.*, 192.
- 28 Gabriel Sued, “El Fiscal Anticorrupción Dijo que lo Limitaron y Renunció”, *La Nación*, March 13, 2009.
- 29 *Ibid.*
- 30 Manzetti, “Accountability and Corruption in Argentina During the Kirchners’ Era,” (2014), 183.
- 31 *Ibid.*, 184.
- 32 Michael Warren, “Argentina Awash in Drug \$”, *Washington Times*, December 2, 2010
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