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Reproductive Rights or Reproductive Justice? Lessons from Argentina

LYNN M. MORGAN

Abstract

Argentine sexual and reproductive rights activists insist on using the language and framework of “human rights,” even when many reproductive rights activists in the US and elsewhere now prefer the framework of “reproductive justice.” Reflecting on conversations with Argentine feminist anthropologists, social scientists, and reproductive rights activists, this paper analyzes why the Argentine movement to legalize abortion relies on the contested concept of human rights. Its conclusion that “women’s rights are human rights” is a powerful claim in post-dictatorship politics where abortion is not yet legal and the full scope of women’s rights has yet to be included in the government’s human rights agenda. Argentine feminist human rights activists have long been attentive to the ways that social class, gender, migration, and racism intersect with reproduction. Because their government respects and responds to a human rights framework, however, they have not felt it necessary—as US feminists have—to invent a new notion of reproductive justice in order to be heard. Given the increasing popularity of reproductive justice in health and human rights, the Argentine case shows that rights-based claims can still be politically useful when a State values the concept of human rights.

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Introduction

IN MID-2011, THE *Colectiva de Antropólogas Feministas* (Collective of Feminist Anthropologists) invited me to give a public lecture in Buenos Aires, Argentina. I welcomed the opportunity in the spirit of collegiality. I imagined the feminist anthropologists as my closest allies and hoped they would be the perfect audience to critique my current research. When I arrived, the Ricardo Rojas Cultural Center auditorium was almost full. As the house lights dimmed, the audience disappeared into darkness. I squinted into the stage lights. It was awkward, speaking in my imperfect Spanish without being able to see the reactions on their faces, but I forged ahead.

My topic was the backlash against reproductive rights movements in Latin America. By “backlash” I meant the reactions of transnational conservative religious activists who were trying to impede the work of sexual and reproductive rights activists. Building on the research of Argentine colleagues Juan Marco Vaggione and Gabriela Irrazábal, I showed how conservative religious activists increasingly adopt the secular language of “rights” to advance their “pro-life” and “pro-family” policies.¹ Rather than arguing for women’s rights, abortion rights, and the right to choose, the conservatives argue for natural rights, parental rights, and fetal rights. In particular, I described the efforts of two US law professors writing about what they called Latin America’s distinct tradition of human rights, and I showed how their arguments echoed the Vatican’s position on life and family.² If human rights language could be utilized even by conservative religious activists, I argued, perhaps the concept of rights had outlived its usefulness. I proposed that the Argentine feminists consider dropping the language of reproductive rights in favor of a broader vision of reproductive justice.

Reproductive justice, I told my audience, was quickly becoming the favored framework for reproductive and sexual rights activists in the US and elsewhere.³ The concept was introduced

in 1994 by SisterSong, a collective of US women of color who found “reproductive rights” to be too focused on privacy, autonomy, and abortion; the movement, they said, was inattentive to the concerns of immigrants and women of color.⁴ SisterSong combined “reproductive rights” with “social justice” to arrive at “reproductive justice.” The reproductive justice framework outlined by SisterSong emphasizes the need to support those who opt not to become parents as well as the need to create safe environments conducive to parenting and to raising healthy children. Reproductive justice decenters abortion and contraception to show how other issues—such as incarceration, immigration, racism, housing, and adoption policies—affect personal and social reproduction, including its non-procreative and eugenic forms.⁵

If the language of rights had been co-opted by religious conservatives, I reasoned, perhaps the Argentines would consider substituting the concept of reproductive justice. I did not expect my proposal to be particularly controversial. Just a few weeks before my talk, Buenos Aires had been the site of a conference on “Access to Reproductive Justice.” Nor was I the first to suggest that sexual and reproductive rights advocacy “would be strengthened by being part of a larger movement for social justice and economic rights.”⁶ The justice framework, I concluded, was preferable to rights.

My audience did not agree.

The murmuring began even before I finished speaking. I knew I had struck a nerve. As the house lights came back up, people whispered animatedly to their neighbors and hands shot up. “Absolutely not,” was the overwhelming response. “We have fought long and hard for the government to grant us the rights we deserve, and we are not giving up now.” One after another, members of the audience rose to declare their allegiance to the language and framework of human rights.

Honestly, I could not fathom why they were so passionate. Now, with the benefit of hindsight, I have

come to appreciate that their perspective reflects a storied history of political struggle quite different from that which led to the concept of reproductive justice in the US. At the time, however, I wondered why this audience of feminist anthropologists clung to a concept of rights that was by then the subject of considerable debate in the social science literature.⁷ Gender rights activists in some parts of the world had already abandoned “explicit references to human rights language.”⁸ Even some Argentine social scientists had begun to consider human rights “a 1990s discourse,” as anthropologist Ari Gandsman declared in an article published shortly after my talk.⁹ Of course I knew that the Argentines had paid a high price to attain their human rights in the wake of the military dictatorship that lasted from 1976-1983, but I couldn’t imagine that my proposal would threaten Argentina’s transformation from “pariah state” to “global protagonist” in the realm of human rights.¹⁰ I also could not understand why they considered abortion law to be the single most important measure of success, when other reproductive justice issues—such as sexual assault, access to information about reproductive health, LGBT parenting, and IVF—were equally important. Yet there was no mistaking the sentiment in the room. My audience was telling me I was wrong.

In this paper, I take the reader on a reflexive, auto-ethnographic journey to understand why the Argentine feminist anthropologists would cling so tenaciously to the language of human rights, and why they insisted on abortion rights even while they are clearly cognizant of the structural and strategic connections between reproductive governance, equity, and justice. The first section of the paper explains the advances, setbacks, and stalemates in the struggle for reproductive and sexual rights before and during the Kirchner administration. The second section shows how the *Nunca Más* report documenting human rights abuses during the military dictatorship came to be wielded as a weapon in the struggle over abortion rights. The final segment summarizes what I learned from reading, reflecting, and talking with Argentine feminist anthropologists and others about their

struggle and why it makes sense for them to hold onto the notion of rights.

Gender, rights, and reproduction: Dangerous intersections

“Women’s rights are human rights.” This slogan may seem obvious or even passé to an outsider, but certainly not to an Argentine. In Buenos Aires in 2011, the slogan was used by some feminists to broaden the inclusiveness of the reproductive rights movement, and by others to shame the Kirchner administrations. Nearly 30 years had passed since the end of the dictatorship and previous democratic presidents had not been fully committed to a human rights agenda. During the extended process of transitional justice, Argentina had shown the world how to convene truth commissions, use forensic experts to produce evidence of human rights violations, and support the brave mothers and grandmothers who protested the disappearance and murder of their children and grandchildren.¹¹ Néstor Kirchner (2003-2007) came into office vowing to emphasize human rights. He was succeeded by his wife, Cristina Fernández de Kirchner, who maintained the human rights platform when she was elected in 2007 and after her husband’s death in 2010. Under their leadership, the country was setting the trend for recognizing the rights of youth.¹² In 2010, Argentina made headlines when it became the first country in Latin America and tenth in the world to legalize same-sex marriage, and in 2012 Argentina passed the world’s most progressive gender identity law.¹³ Yet the administration that stood up for human rights steadfastly refused to legalize abortion.

Feminists are not a monolithic group, of course, and even this group of feminist academic anthropologists disagreed with one another about how to interpret Fernández’s actions. Some supported her while blaming the conservatives for stopping a proposed new abortion law, while others were more critical. The feminists did agree that abortion should be legalized, however, and to claim that women’s rights are human rights was their strategy to broaden the scope of their movement and

to hold the Fernández administration accountable. Their inability to achieve this one important policy change was especially frustrating given that reproductive and sexual rights movements had achieved an impressive list of other reforms.¹⁴ For example, a national program for sexual health and responsible procreation was implemented in 2003, requiring public health and social security agencies to provide free information and counseling related to sexually transmitted infections including HIV/AIDS and contraceptive methods. In 2006, a public sex education reform was approved and a federal law was passed to permit free tubal ligations and vasectomies to be offered in public hospitals, and in 2007 emergency contraception was accepted into national health protocols.¹⁵ In 2007, a coalition of groups known as the *Campaña Nacional por el Derecho al Aborto Legal, Seguro y Gratuito* (National Campaign for the Right to Legal, Safe, and Free Abortion; hereafter *Campaña*) presented a bill to Congress to revise the penal code, decriminalize abortion, and allow for the voluntary interruption of pregnancy.

Not all the news had been good for reproductive rights activists. As president, Fernández cut funding for the sexual health program, slowed the delivery of contraceptives through the Ministry of Health, and halted dissemination of a hospital protocol for post-abortion care. These actions led some to suspect that she was hostile to reproductive rights or unwilling to risk the wrath of the Catholic Church.¹⁶ Reproductive rights activists were upset that politicians appeared unwilling to extend the full scope of democratic human rights to women (see “Cuando los derechos humanos no llegan a las humanas,” or, “When human rights [gendered male] do not reach humans [gendered female]”).¹⁷ Activists were heartened in 2012 when the Argentine Supreme Court issued a landmark ruling known as *Caso F.A.L.*, which clarified that abortion in cases of rape is not punishable by law.¹⁸ In 2013, a law made assisted reproductive technologies available for free to all married couples—gay or straight—as well as to unmarried women. Activists considered it an insult that abortion remained criminalized in the midst of these other changes.

Activists began to talk about the legalization of abortion as a “debt to democracy.”¹⁹ By refusing to legalize abortion, the Fernández administration was offending the very women at the forefront of Argentina’s human rights movement. It was women, after all, who had “called the world’s attention to the military’s systematic violations of human rights and challenged the dictatorship when few people dared to do so.”²⁰ Critics said that both Néstor Kirchner and Cristina Fernández de Kirchner focused single-mindedly on convicting past human rights violators as an excuse to “avoid dealing with current human rights problems.”²¹ Thirty years after the return of democracy, impunity was abolished and several military leaders, including the notorious ex-President General Jorge Rafael Videla (1925-2013), had finally been jailed for their crimes. Achieving these human rights goals created space for sexual and reproductive rights activists to call in their debts. Increasingly, they demanded that the government address abortion. A 2007 study labeled maternal mortality “a human rights issue” and proved that abortion complications were the major cause of maternal mortality in Argentina.²² In 2004 and 2005, national leaders, including Supreme Court Judge Carmen Argibay and Minister of Health Ginés González García, openly expressed their support for decriminalizing abortion.²³ If human rights were to be a Kirchner/Fernández legacy, activists insisted that it include the legalization of abortion. As they wanted to involve other progressive movements in their struggle, they held to the claim—profound in its simplicity—that women’s rights are human rights.

In 2011, at the time I spoke in Buenos Aires, reproductive rights activists had reason to be cautiously optimistic. The situation had improved since previous democratic presidents, most of whom were overtly hostile to the sexual and reproductive rights agenda.²⁴ The 1989-1999 president, Carlos Saúl Menem, for example, was an outspoken opponent of contraception and abortion. He allowed Argentina to lead the conservative opposition to the reproductive rights platforms at the Cairo and Beijing population conferences. He proposed anti-abortion language for the 1994

Constitutional reform and designated March 25 as “Day of the Unborn Child,” actions that won him recognition from the Vatican.²⁵ Reproductive rights supporters charged Menem with hypocrisy when his ex-wife told reporters that he had consented to an abortion she had 30 years earlier; Menem did not deny it.²⁶ Compared to Menem, the Kirchners were champions of human rights and gender justice, but those who hoped they would decriminalize abortion would be disappointed.

There are many explanations for why Néstor Kirchner and Cristina Fernández de Kirchner have not decriminalized abortion. According to political scientist Mario Pecheny, the reasons begin with pre-existing social complexities, including the way that men’s public spheres are segregated from women’s private spheres, the expectation of mandatory motherhood, the legal prohibitions that made abortion into a stigmatized and clandestine practice, and changes in Catholicism that framed abortion as a pillar of its institutional identity.²⁷ Feminism arrived late to Argentina because the blossoming of second wave feminism coincided with the period of dictatorship; also, global pro-life movements were strong by the time feminism began to flourish.²⁸ Argentina’s strong culture of maternalism was also a factor. Beginning before the dictatorship, writes Rita Arditti, “Argentine women were reminded more strongly than ever that their primary role was in the home and that as wives and mothers their function was to ensure conformity and obedience to the state.”²⁹ The perception of women as mothers and wives who would protect their children and “be on the side of life” was widely shared in Argentine society and formed the basis for the Madres’ human rights claims.³⁰ There may have been other, more proximate reasons why the Fernández administration did not decriminalize abortion. She may have been genuinely more religious than her husband, or she might have formed a strategic alliance with the Catholic Church in order to gain support for other initiatives.³¹ Either way, it is clear that many reproductive rights initiatives were discontinued or blocked during the Fernández presidency.

Paradoxically, the campaign to legalize abortion was complicated by the symbolism of the Madres, whose legitimacy as human rights advocates was predicated on their role as mothers willing to defend their children to the death. “In all the world,” writes Feitlowitz, “there is no more eloquent symbol than the Mothers [of the Plaza de Mayo] of the prophetic power of maternal love.”³² The Madres were distinguished by the courage they displayed as mothers, marching in front of the guns to say, “We will not tolerate the killing of our children.” In this sense, the human rights movement in Argentina reinforced the figure of the heroic mother, emphasizing the enduring bond between grieving mother and her tragically dead child. Such movements managed, as Susan Eckstein pointed out, “to reestablish women’s rights to motherhood, not to transform or transcend women’s place in the home.”³³ The human rights movement, in other words, strengthened the subject position that gave meaning to courageous mothers willing to sacrifice everything for their children. Those children, in turn, came to represent both the terrible past and the resilient future of the nation.

This history complicates the demand for legal abortion in ways that are uniquely Argentine. For some, it discursively excludes abortion from the realm of human rights because abortion—at least in the eyes of its opponents—gives women permission to perform that most heinous and unnatural of crimes: that is, to kill her children (who are also “our” children).³⁴ One of the most stinging epithets lobbed at abortion rights supporters, as one activist told me, is “matahijos” (child killers). How can abortion, in this rendering, be considered a human rights claim? This was the angle used by the Argentine National Academy of Medicine in a 1994 national news advertisement that stated, “Any legislation that permits abortion violates basic human rights.”³⁵ It is important to note the difference between the Madres’ political agenda and the conservative maternalism they symbolize, however, because politically the Madres have largely supported the legalization of abortion. Nevertheless, the idealized image of mothers as the standard bearers of human

rights complicates reproductive rights activism in Argentina, as we can see in the battle over *Nunca Más*.

Nunca Más: The battle for never again

Although the return to democracy brought with it a strong emphasis on human rights, abortion regulation was not a high priority for most human rights advocates.³⁶ In fact, many human rights demands following the return to democracy were framed in terms of the need to protect the family, especially “the place of the children of the disappeared in the family.”³⁷ This was the case with *Nunca Más*: Informe de la Comisión Nacional Sobre la Desaparición de Personas (“Never Again: The Report of the Argentine National Commission on the Disappeared”), the 1984 report by CONADEP that documented torture, disappearances, and executions during the dictatorship. Since 1984, the *Nunca Más* report has become renowned in the field of international human rights as “a slogan and a symbol of the transitional justice movement.”³⁸ Sociologist Emilio Crenzel says that *Nunca Más* crystallized a shared set of Argentine values when it was published; it “combined political and moral principles, distinguished the present from the past, and proposed a common future.”³⁹ One of those shared values was the traditional family. The report cast the family itself as victim of the atrocities, citing the disappearances as a series of cruel, ruthless attacks on the traditional nuclear family.⁴⁰ Of the junta’s practice of removing children forcibly from their families, the report says, “Deprived of their identity and taken away from their parents, the disappeared children constitute, and will continue to constitute, a deep blemish on our society. In their case, the blows were aimed at the defenceless, the vulnerable and the innocent, and a new type of torment was conceived.”⁴¹ In other words, *Nunca Más* reinforced the junta’s assertion that the traditional family is a pillar of national identity and moral integrity.

The slogan “*nunca más*” became an unassailable emblem of morality in the Argentine public sphere, according to Pablo Gudiño Bessone.⁴² It was this

unassailability that allowed the phrase to be so widely appropriated. Government agencies and human rights organizations each “sought to impose their own respective interpretation—which each thought was the only possible interpretation—and thus saw the other as going against the ethical, legal, and political order that they understood *Nunca Más* represented.”⁴³ In recent years, *Nunca Más* has been appropriated by both opponents and supporters of legalized abortion. Historian Karina Felitti notes that activists on both sides of the reproductive rights and marriage equality debates in Argentina accuse their opponents of behaving like the despised agents of state terrorism.⁴⁴

It was perhaps inevitable, then, that the *Nunca Más* report would be invoked in the abortion debate. In 2007, a bill to legalize abortion was introduced to Congress at the same time that junta leaders were finally being tried in court after 20 years of impunity. Parallels between the two events were irresistible. Each side insisted that the other be held similarly accountable for its actions and its victims, which they did by applying language and imagery from the dirty war to the practice (or prohibition) of abortion.⁴⁵ For example, the Bishop Emeritus of Viedma, Miguel Esteban Hesayne, delivered a homily calling abortion a “crime against humanity.”⁴⁶ An online version of his remarks was illustrated by the familiar image of the cover of the *Nunca Más* report, subtitled “Report of the National Commission on the Disappeared,” but in this case the silhouette of a pregnant belly and fetus was superimposed over the cover.⁴⁷ The message was an obvious invocation of the dirty war: never again the wholesale murder of defenseless, vulnerable innocents; think of all those disappeared fetuses. Likewise, pro-life demonstrators chanted in the capital: “Today and yesterday it’s the same/ If yesterday they stole babies/ Today they kill them in the womb/ What is the difference/ Tell us, President.”⁴⁸

Using Argentina’s sordid history to cast abortion as a crime against humanity became a standard tactic of abortion opponents. Sociologist José Manuel Morán Faúndes, who analyzes pro-life movements in Argentina and Chile, says that pro-life activists

“began to strategically construct their conservative sexual politics on the basis of rhetorical discourses associated with the condemnation of human rights violations that occurred during the dictatorship.”⁴⁹ One example took place in 2005, when Bishop Antonio Baseotto suggested that people such as the Minister of Health who favored decriminalizing abortion “should be thrown into the sea with a millstone tied around their necks.”⁵⁰ This was a clear reference to the dark days of the dictatorship, when the junta had dropped prisoners alive from airplanes into the sea. The unborn, according to pro-life militants, were the moral equivalent of those disappeared during the dictatorship, never to return. Self-avowed pro-life activists represented abortion as a criminal, genocidal practice against the innocent and defenseless; one priest said, “With the bitter experience of our own recent history, we Argentines should be protagonists in the fight for the helpless.”⁵¹

Supporters of the abortion rights campaign also invoked the *Nunca Más* discourse, choosing their words carefully. They carried signs that read “Aborto clandestino, nunca más” (“Clandestine abortion, never again”), emphasizing the plight of women forced into clandestinity by referring to the notorious ESMA torture center that operated in Buenos Aires during the dictatorship. When they said that lack of access to legal abortion forces women into motherhood against their will and “assassinates women’s liberty,” they recalled the pregnant women forced to give birth in detention prior to being executed.⁵² They appeared on the streets in a sea of green headscarves, to symbolize their respect for the *Madres’* gender-based human rights claims.⁵³ The *Madres* perpetuate an image of themselves as the walking embodiment of their children, because “what happened to their children was abhorrent”; Gandsman quotes Hebe de Bonafini, one of the *Madres’* leaders, saying, “Our children are inside us.”⁵⁴ She is, in effect, permanently pregnant, sheltering and protecting her child with her own body. The green headscarf was an obvious but not undisputed symbol of solidarity; to some “the scarves stood as a symbol of maternal-child purity” while for others they signified “their

militant motherhood.”⁵⁵ Yet the decision to appropriate the symbol used by mothers whose children were murdered was a perilous choice for a movement that claimed—in the words of abortion opponents—“el derecho a matar” (the right to kill). How can abortion be legalized in Argentina, when killing babies (in the form of the *Madres’* children) is one of the horrors that Argentina is trying to leave behind?

Reproductive rights supporters in Argentina argue that the prohibition on legal abortion is hypocritical because: 1) legal restrictions do not reduce the number of abortions occurring; 2) abortion is fairly accessible in the capital and to women who can afford it despite restrictions, especially given the availability of misoprostol; 3) abortion is rarely prosecuted; 4) the effects of illegality and clandestinity are disproportionately suffered by young and poor women, as well as those who live in conservative provinces.⁵⁶ They argue that decriminalizing abortion would improve the circumstances for the estimated 500,000 women who resort to induced abortion each year in Argentina, as well as those who lack the means.⁵⁷ They consider decriminalizing abortion to be a matter of justice, equality, and protection of the poorest and most vulnerable—a debt to democracy.

By invoking the *Nunca Más* report, each side paints its opponents as murderers who operate clandestinely, outside the bounds of law and morality.⁵⁸ It links abortion (both legal and criminal) to other genocidal projects including the lynching of blacks in the US and the murder of Jews by the Nazis. It asks not just how this happened but “how can we prevent this from ever happening again.”⁵⁹ These are strategic efforts to co-opt the report’s moral authority while demonizing opponents because in Argentina, everybody wants to be on the side of *Nunca Más*.

Women’s rights are human rights!

To return to my original question, the Argentine feminist anthropologists were determined to hold onto the language of human rights for several reasons. First, between 2003 and 2013, human rights

had been a winning strategy for achieving progress on almost every front except the legalization of abortion. The feminists insisted on naming reproductive rights—and specifically the right to abortion—as a vital goal yet to be achieved under the rubric of human rights.⁶⁰ They knew that the country was legally obligated to respect international law; Argentina had granted constitutional status to international legal treaties since 1994.⁶¹ Fernández had already extended the human rights domain to include marriage equality, making Argentina the first country in the world to legalize gay marriage without first legalizing abortion.⁶² They also knew that abortion was close to being legalized in neighboring Uruguay (which it was in 2012) under a law that cited the State's obligation to “promote the full exercise of sexual and reproductive rights on the part of the entire population.”⁶³ Clearly, the language of rights was a winning strategy, a “structural resource” that advocates could use to press their cause.⁶⁴ As far as they were concerned, substituting the concept of reproductive justice for reproductive rights would be a step backward.

The second reason is related to the first: a rights focus allows activists to keep the pressure on political leaders. They do not want reproductive rights to become bureaucratized, de-politicized, or medicalized. This explains why some feminists are wary of efforts to frame clandestine abortion solely as a public health problem. If that happens, they say, paternalistic legislators might be tempted to shift the responsibility from legislative to medical realms.⁶⁵ Activists pressure legislators through a multi-pronged strategy of public and behind-the-scenes organizing. The *Campana* is the public face of the movement, with public demonstrations to keep the issue in the headlines and a roster of supportive legislators who repeatedly introduce bills into Congress. Meanwhile, strategists continually craft legislation they hope might be politically palatable. Such political exigencies explain why the Argentine feminists keep “human rights” at the center of their legislative project, reiterating that abortion is a “debt to democracy” and holding Congress directly responsible.⁶⁶

The third reason for holding onto the language of human rights is that attempts at appropriation of “rights talk” were not new. According to Feitlowitz, the language of human rights became intensely politicized during the dictatorship, when the junta adopted the slogan “Los argentinos somos derechos y humanos” (“The Argentines are straight/right and human”):

No expression so infuriated the junta as ‘human rights.’ One could fill an entire volume with their bellicose statements on the subject. ‘We are jealous defenders of [a country’s] right to self-determination. That is why we will not allow [groups] waving banners for ‘human rights’ to determine . . . our future,’ affirmed a spokesman for the air force. Responding to journalists’ questions in Brazil, Videla explained, ‘When we say that we want to respect human rights, we mean this to benefit all men of good will, Argentines and foreigners, who live in our country, who respect our laws, and who are collaborating in the development of our nation.’⁶⁷

This example shows that to espouse human rights is one thing, but to practice human rights is another. The debate was not simply rhetorical; sexual and reproductive rights activists were eager to direct change themselves. They showed how the language of rights could be applied to the realms of sexuality, bodies, gender, and reproductive autonomy to bring about changes in policy. Because of their success in using this strategy, they would not dream of dropping the language of human rights simply because religious conservatives were adopting it as their own. The Argentine feminist anthropologists did not need me to tell them that they were facing a counterattack from Catholic conservatives, any more than they needed me to suggest that a rhetorical reframing of their history would offer salvation.⁶⁸

Fourth, Argentina was quickly becoming a powerhouse of knowledge production in sexual and reproductive rights. Non-Argentine scholars sometimes suggest that liberal concepts of human rights originate in Eurocentric legal traditions

that travel south.⁶⁹ It would be wrong to assume a unidirectional, intellectual diffusion from north to south, however, when looking at Argentina. Scholars and activists at Centro de Estudios de Estado y Sociedad (CEDES), the Gino Germani Institute at the University of Buenos Aires, Centro de Estudios e Investigaciones Laborales CONICET (CEIL-CONICET), Catholics for the Right to Decide, and several regional universities and activist organizations are generating a burgeoning literature pertaining to sexual and reproductive rights in fields as diverse as law, public health, sociology, political science, history, and religious studies. The team in Córdoba, for example, analyzes the strategies used by conservative religious activists who share a commitment to a social and sexual order based on heteronormativity, marriage, monogamy, and reproductive sexuality.⁷⁰ They put sexual rights and reproductive rights together into the same theoretical frame, arguing that this should be understood as a unified social movement and political alliance, rather than being fractured into separate spheres of “reproductive rights” and “LGBT rights” as they often are in the US.⁷¹ If Argentine feminists wanted to utilize a concept of “reproductive justice” imported from the US, it would be on their own terms.⁷²

Indeed, the Latin American movements for reproductive rights and justice may not be imported from, or even necessarily related to, similarly named movements in the US. Rather they might emanate historically from other, deep-rooted Latin American social justice movements such as those involving peasant livelihoods and agrarian reform, Afro-descendant and indigenous identity politics, liberation theology, family planning, survival strategies, and the feminization of poverty.⁷³ The precise genealogical details of affinity between social movements need to be worked out in each instance, but the point is that Latin American feminist reproductive and sexual rights movements might trace their roots to home-grown social justice histories and politics rather than to the diffusion or importation of US or global reproductive justice movements. Further research is needed to understand whether, when, and why the concept

of reproductive justice gains traction in some Latin American contexts and not others; this paper offers one modest step in that direction. Given the increasing popularity of the concept of reproductive justice, it is important to understand the contexts in which rights-based claims can still be politically useful. Argentine feminists hold onto the language of rights not because it is inherently superior, but because it makes sense in a place where the government respects human rights.⁷⁴ Local courts as well as international authorities are beginning to interpret women’s rights as including the right to safe and legal abortion. This is exemplified in the rulings of LMR and the Caso F.A.L., which hold that women who are raped have the right to legal abortion and that to deny them that right constitutes a form of torture. In the context of transitional justice, then, human rights is an effective tool for challenging the balance of power. Activists felt a sense of political urgency in 2011 because—although Argentine public opinion polls favored legalizing abortion—the politicians had thus far failed to act.⁷⁵

The Argentine feminist anthropologists taught me a threefold lesson that day in Buenos Aires, when they sent me back to the proverbial drawing board to reflect on their reactions to my proposal. First, if US feminists perceive reproductive justice as a superior analytic framework, it is because race, class, and gender discrimination intersect differently in the US than in Argentina: history always matters.⁷⁶ Second, Argentine feminists have long been attentive to the ways that social class, gender, environmental degradation, migration, and racism intersect with reproduction—in short, to the values espoused under the banner of reproductive justice. But because their government is more receptive to a human rights approach than the US government, they did not need to invent a new notion such as reproductive justice in order to be heard.⁷⁷ And third, reproductive rights is a powerful signifier in post-dictatorship politics, when abortion is illegal under most circumstances and women’s rights have yet to be fully acknowledged in the government’s human rights agenda.

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