**Challenging the Argentine Conservative Gender
Regime: The Multi-scalar Politics of Biological
Reproduction after Democratization**

by

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Abstract

This thesis explains the causes of a gender regime change in Argentina, with a focus on the politics of reproductive rights developed after democratization. The findings suggest that changes in the area of biological reproduction are a departure from the traditional conservative gender regime. Though important aspects of the old regime are still in place, new policies of birth control have been adopted. This gender policy and regime change is occurring in a multi-scalar manner, highlighting the relevance of international, national and sub-national involvement. To understand changes in reproductive policies this thesis examines the role of the Argentine women's movement and how it has been empowered by international developments related to reproductive health and rights.

The gender regime is composed of three elements: social reproduction, which includes paid and unpaid work and women's welfare; biological reproduction, including sexuality, fertility and body rights; and women's agency, which is central to understanding the changes associated with the gender regime. It is argued that changes in the Argentinean gender regime are the result of the combined effect of three measures: the 1983 democratization, which allowed for the mobilization of the Argentinean women's movement; the negative impact of welfare state retrenchment on women, brought on by structural adjustment policies; and the international gender equality regime that emerged over the course of the last few decades. Changes in the national gender regime are not only the result of domestic politics and policies, but of international politics as well. This is due to the emergence of the global gender equality regime, which allows extended discourse and new scales of political action.

This thesis critically engages with gendered welfare regime theory in order to place Argentina in a comparative framework. Building on the current literature of the welfare and gender regimes of North America and Western Europe, it applies the concept of gender regime to capture the crucial relationship between social and biological reproduction, and the implications for women and gender in/equality. The comparative framework can then be used to analyze the current dynamic situations of other Latin American and/or conservative familial gender regimes.

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List of Acronyms

CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CELS	Centro de Estudios Legales y Sociales (Center of Social and Legal Studies)
CGT	Confederación General del Trabajo (Central Union Workers)
CLADEM	Comité de América Latina y el Caribe para la Defensa de los Derechos de la Mujer (Council of Latin America and the Caribbean for the Protection of Women's Rights)
CNM	Consejo Nacional de la Mujer (National Women's Council)
CTIO	Comisión Tripartita de Igualdad de Trato y Oportunidades entre Mujeres y Varones en el Mundo Laboral (Trilateral Commission of Equality of Treatment and Opportunities for Women and Men in the Workplace)
ECLAC	Economic Commission of Latin America and the Caribbean
FEIM	Fundación para el Estudio e Investigación de la Mujer (Foundation for the Study and Research on Women)
ILO	International labour Organization
IMF	International Monetary Fund
INDEC	Instituto Nacional de Estadística y Censos (National Institute of Statistics and Census)
IDB	Inter American Development Bank
MERCOSUR	Mercado Común del Sur (South American Common Market)
MDG	Millennium Development Goals
PREPASO	Frente para un País Solidario (Coalition for a Solidarity Country)

PROFAM	Argentina – Family Strengthening and Social Capital Formation Project
RPA	Regional Platform for Action for the Women of Latin America and the Caribbean
SACRA	Sindicato de Amas de Casa de la República Argentina (Trade Union of Argentine Housewives)
UCR	Unión Cívica Radical (Radical Party)
UN	United Nations

Introduction

*That every maternal death count*¹

Argentina has a longstanding pro-natalist tradition, underpinned by strong maternalistic values and supported by a conservative gendered welfare regime. With the exception of the last military government (1976-1983), however, no administration has adopted explicit demographic policies concerning the use of contraception. Decisions about reproduction were considered to be the domain of the family, though no public services for family planning were provided. While high and middle-income families have been able to access reproductive health services in the private sector and through the traditional social security system (*obras sociales*), poorer families must rely on the public sector. This inequality of access has increased due to the crisis of the old welfare state and the structural adjustment policies implemented during the 1980's, which were more strongly enforced in the 1990's. Decentralization of the health system and increasing demand for public health services have overwhelmed the state's capacity to meet the required levels of care and service. This has the greatest impact on the poor—particularly poor women—who often lack basic family planning services.

Despite economic crisis and decline and the availability of effective reproductive health indicators such as fertility and maternal mortality due to induced abortion, no changes in reproductive policies that would ensure the rights of those without formal health coverage and protect social security provisions were implemented. Policies related to biological reproduction have proven to be resistant to change. As Fraser (1989)

¹ “Para que cada muerte materna importe” (CEDES 2004)

suggests, “needs” are not sufficient reason to promote policy change. In Argentina, many years of democratic instability and political crisis have inhibited the development of policies to advance reproductive rights. Recent developments, however, have begun to change these traditional arrangements, and the resulting new policies and debates constitute a landmark in Argentinean history, where pro-natalism has persisted since national state building, circa 1880. The policies implemented since 2003, which are intended to ensure reproductive rights through access to contraception and services, have ‘opened the door’ to new programs such as contraceptive surgery, and debates on therapeutic abortion.

The essential argument of this thesis is that the Argentine conservative gender regime is being challenged as a result of policy changes pertaining to biological reproduction (birth control policies). It is argued that the growing pressure of the problem alone does not account for the changes. After the start of the democratization process in 1983, Argentinean women’s activism provided important impetus to policy change by altering the way the issue was framed in the political discourse (Jenson 1986). While the Argentinean women’s movement was one of the main contributors, to fully understand these victories we also need to consider the empowering effect of international developments. International discourses regarding reproductive rights contributed to the reshaping of domestic politics and policies on women’s health. Also, while the new birth control policies represent something of a breakthrough, significant remnants of the old regime remain, reflecting the continued strength of traditional maternalist discourse.

The Problem

Although Argentina is one of the most developed welfare states in Latin America, with a high human development index (HDI), indicators of reproductive health reveal a deep pattern of gender and class inequality. The absence of family planning for the poor, and the inefficient organizational structure of the health sector have exacerbated an already severe social situation. The extent of social problems such as high maternal mortality, unsafe abortion, and poor access to women's health care has been identified as symptoms of the need for change. For example, according to the data on gynecologist visits provided by CEDES (2004), women who depend solely on the public sector visit less often than others. In urban areas, while between 40% and 60% of women use modern contraceptives, poor and young women have the least access to them. There is a clear relationship between women's social status and the method of contraception they use. Of poor women, 49% use contraceptive pills, while 41% of higher status women use condoms. Regional differences are also important in terms of access to the health sector. For example, 71% of women in the Buenos Aires region use modern contraceptives; yet less than half of women aged 15 to 49 who live in the Northwest use them. (CEDES 2004, 67-9)

Fertility

From 2005-2010 Argentina's total fertility rate is 2.3, but when analyzed along regional and class lines significant differences emerge. In 2001, according to SIEMPRO's data, 39% of women of non-poor households had no children, while 84% of mothers in this same socioeconomic class had between one and three children. Only 16% of the non-poor had four or more children. In contrast, 29% of poor women were not mothers and 41% of

poor mothers had four or more children. Regional differences are also important. While women in Buenos Aires have a fertility rate of 1.3, the fertility rate in Formosa, a poor province located in the Northeast of Argentina, is 2.8 (see table 1).

Generational differences also exist with regard to fertility, and teen pregnancy is relatively high. In 2001, women under 20 years of age had 14% of newborns. Both early sexual initiation and ineffective sexual education influence this trend. Social status and education are also important factors in teen pregnancy. The Chaco province in the impoverished Northeast region has the highest rate of Argentina's teen pregnancies, 24.3% of the total. Teenage fertility also differs by region. The city of Buenos Aires has the lowest level of teen pregnancy (5.1% of births in 2001). Chaco has the highest rate, and 50% of Chaco teenage girls become mothers for the second, third or fourth time. This suggests the urgency and amount of medical attention and counseling needed to prevent unwanted pregnancies.

Maternal Mortality

Like all of Latin America, Argentine maternal mortality follows a pattern that is not only related to birth complications, but also to the failure to provide health services to all sectors of the population. In 2001, the overall rate of maternal mortality in Argentina was 4.3 per 10,000 newborns, but there were widely different rates among the provinces, and considerable geographic distinctions with regard to the highest rates. Jujuy—a poor province in the northwest—has the highest maternal mortality rate (19.3 per 10,000 newborns). Other provinces with high rates are Chaco (15.9 per 10, 000), Formosa (13.9 per 10, 000) and San Juan (8.7 per 10, 000). In contrast, the city of Buenos Aires has the

lowest maternal mortality rate (0.9 per 10, 000). Moreover, fifty percent of women who die while pregnant or in childbirth are not registered with the government, suggesting that official records do not provide an accurate count of the number of deaths due to unsafe abortions. This could be related to the high incidence of illegal induced abortions.

Since 2000, and the establishment of the New Millennium Development Goals (MDG), Argentina's government committed to reducing maternal mortality from 48 per 100,000 to 13 per 100,000 by 2015 (Clarín 24/06/08). Although Argentina ranks at the top with respect to human development among Latin American countries, it ranks poorly in reproductive health compared to others with similar levels of development, such as Chile and Uruguay. In terms of reproductive health Argentina resembles Mexico, a country with worse social indicators and a less developed welfare regime. This situation has contributed to and supports a legitimate case for the development of reproductive rights in Argentina.

Induced Abortion

It is clear that the criminalization of abortion also negatively affects women's potential for healthy deliveries in public hospitals. According to Article 86 of the Argentinean penal code, abortion is a "criminal act against life." It carries a penalty of one to four years in prison for those who practice abortion with the woman's consent, and up to 15 years if the woman did not consent and/or if she dies. A woman who induces her own abortion can receive a jail term of one to four years. While there is no reliable data on induced abortion in Argentina because of its illegality, it is estimated that there are between 335,000 and 400,000 abortions per year. According to the Argentinean Ministry of Health, the number of abortions has increased to more than 500,000 per year, and 33%

of hospital obstetric interventions are related to unsafe abortions. In terms of the access to the health sector, there is evidence of a lack of post-abortion counseling to avoid future repetitions and to prevent unwanted pregnancies via the use of contraception.

The use of pharmaceutical drugs to induce abortions has increased recently. In 2006, a woman died as a result of an abortion induced through the use of Misoprostol, a drug used to treat ulcers that can induce abortion when administered in higher doses. The use of misoprostol by poor women to induce abortion is now quite common in Argentina. A medical research report conducted over a period of three and a half years, which examined 7,049 births, revealed that of babies born with genetic malformations, most were due to the use of misoprostol. Between 2003 and 2004 in the Vera Barros Hospital, a public hospital in a poor area of the province of Buenos Aires, 1,772 women were hospitalized with gynecological complications after an unsafe abortion. Widespread agreement exists among public health doctors that the most effective way to eliminate clandestine abortions is to avoid unwanted pregnancies (Clarín, Opinion 11/11/06 Dr. Roberto Nicholson – University Professor UBA)².

As argued in this thesis, though these problems clearly identify the need for institutional change they are not enough, since policy makers do not react automatically to problems (Campbell 2002). The process is much more complex, and in many instances political actors may fail to recognize the existence and/or severity of a problem for a long time. Or, they may agree about a problem, but not how to solve it. It follows, then, that

² Other relevant issues –however not the focus of this thesis- are breast and uterus cancer, HIV and domestic violence in the form of sexual abuse, which however is part of the gender agenda and has been at the core of the women's movement in the latest years around the world. In the case of HIV/AIDS the estimation of cases in Argentina were 25,411 total cases in 2002.

problems are subject to political interpretation (Fraser 1989). This thesis focuses on the construction of interpretations of different women's needs, and analysis of public discourses on reproductive rights is important to understanding these interpretations.

Developing the Argument

This thesis primarily seeks to explain how and why a transformation in the gender regime is occurring in Argentina. More specifically, it attempts to understand what has led to changes in established biological reproduction (birth control) policies, and the extent to which these changes pose a challenge to the conservative Argentinean gender regime.

The gender regime is composed of three elements: social reproduction, which includes paid and unpaid work and women's welfare; biological reproduction, including sexuality, fertility and body rights; and women's agency, which is central to understanding the changes associated with the gender regime. It is argued that changes in the Argentinean gender regime are the result of the combined effect of three measures: the 1983 democratization, which allowed for the mobilization of the Argentinean women's movement; the negative impact of welfare state retrenchment on women, brought on by structural adjustment policies; and the international gender equality regime that emerged over the course of the last few decades. Changes in the national gender regime are not only the result of domestic politics and policies, but of international politics as well. This is due to the emergence of the global gender equality regime, which allows extended discourse and new scales of political action.

The thesis addresses the policy and regime change through an analysis of the political framing of women's needs related to biological reproduction. It is suggested that

the historical legacies of various gender regimes—social-democratic, liberal and conservative—provide a framework to interpret these needs (Mahon 2008, 2). The previous national gender regimes have shaped how women's needs and gender relations are understood. Thus, the nature of the Argentinean gender regime can be explored by examining the historical legacies of women's reproductive conditions, and the roles these legacies playing in the building of the Argentinean welfare regime.

This thesis critically engages with welfare and gender regime theory to position the Argentinean case. It also introduces two significant variations. The first is that democratic transitions and the legacy of authoritarianism have led to negative consequences for citizenship, limiting the scope of welfare services provided. This resulted in fragmentation and gender dualism of Argentina's gendered welfare regime. The second variation is the suggestion that instability of the political and state institutions has strongly contributed to the incompleteness of Argentina's national welfare state. Institutional instability, a feature of many democracies outside North America and Western Europe, has important consequences for our understanding of policy and regime change. Countries like Argentina have a high degree of volatility in their institutional and public policy. While this has been detrimental to the development of the welfare state, it has provided potentially better circumstances for policy innovation. Since the 1990's, the introduction of structural adjustment policies has also contributed to hybridizing the already fragmented, though conservative, welfare regime.

Despite their important contribution to the literature of policy change, welfare/gender regime approaches have tended to focus exclusively on national politics, while neglecting other scales of political action. This poses a problem today due to the

increasing global definition and subsequent diffusion of social policy ideas, particularly in a highly unstable institutional context such as Argentina's. There is important literature that highlights how the concept of reproductive rights has been advanced in the international arena (Friedman 2003; Desai 2005). Indeed, Latin American women's demands for reproductive rights and health care have been amplified by the development of an international discourse of reproductive rights, which appeared in successive UN Conferences, Cairo in 1994 and Beijing in 1995. In many cases, this renewed discourse articulated and specified the goals of international organizations' poverty reduction strategies, including the 2000 MDG.

This thesis takes into account the impact the global diffusion of ideas has had on Argentinean gender equity policies and politics, especially as they pertain to reproductive rights. As well, it demonstrates that the impact of these new ideas on reproductive rights in Argentina has been mitigated by the historical influence of maternalistic discourse and the practices of the conservative gender regime. Thus, important patterns of continuity within change exist, and the modes and circumstances of change are examined in the chapters that follow.

Key Concepts

Chapter One focuses on the key concepts and ideas that are the theoretical foundation of this thesis. Here, a set of terms, which are of central importance, are introduced.

The thesis examines the building and transformation of the Argentinean gender regime. As Esping-Andersen's original contribution did not consider gender issues, I draw upon several feminist perspectives to stress the welfare state's role in building and reproducing gender inequalities. The welfare state plays an important part in the forming

of particular gender relations through public policies, such as social benefits. But the state also intervenes in the regulation of private life through biological reproduction (O'Connor et. al. 1999; MacRae 2005; McKeen 2004). The concept of gender regime, which constitutes the link between social and biological reproduction, not only encompasses the welfare regime, but also goes beyond it. Gender regime can be broadly defined as the set of norms, rules and policies that shape gender relations. It is composed of three aspects/elements: social reproduction, including paid and unpaid women's work and women's welfare; biological reproduction, defined as fertility, sexuality and body rights; and women's agency, understood as women's political activism inside and outside formal politics. While there are other areas of state activity that have an impact on women's paid and unpaid work, an important influence on women's employment is the regulation of fertility and body integrity via state intervention in the area of biological reproduction. In developing countries this relationship is often crucial due to insufficient gender equality policies in both the social and biological dimensions of reproduction. The analysis of the Argentinean women's movement is positioned in both national and broader contexts. The concept of gender regime allows for a better understanding of policy change through two other concepts developed in this thesis: political opportunity structure and universe of political discourse. While these concepts were originally applied to national politics, the thesis expands their use to the different interconnected scales by which policy formation takes place.

The politics of scale is central to the analysis. Rather than focusing on just one scale (e.g. national), the thesis examines the link between different scales that collectively contribute to redefining reproductive policies and challenging the Argentinean

conservative gender regime. The concept of ‘scale’ will be employed to refer to the different hierarchical levels of territorial space where policy formation could happen. It implies that the scales are relational; that a particular scale cannot be understood in isolation from the others (Miller 2007, 3).

The concept of political opportunity structure highlights the terrain of collective action where social movements develop repertoires and frame political action. In this thesis, the different institutional settings constitute opportunities for social actors to mobilize power resources (Tarrow 1998). Political opportunity structure is understood as resources external to the group. Two components of the political opportunity structure are featured in this work: the relative openness of the political system and institutional framework, and the broad set of elite alignments (Tarrow 1998; Orsini 2002). In the case of gender equality, and reproductive rights in particular, women’s advocacy was developed at different scales. Specifically, the scope of the political opportunity structure was extended beyond the national political arena. In many ways national politics was a problematic scale for the introduction of gender equality goals in Argentina. Women’s groups had incentives to look to other scales where political advocacy was more effective in diffusing women’s discourses, such as the international and the regional scales. For example, the follow-up of the International Convention on the Elimination of Discrimination Against Women (CEDAW) on Argentina’s gender equality agenda opened up opportunities for women’s associations to access the UN arena, and to expose the status of women in the country. At the same time, the rescaling of the gender regime was due to new ideas developed at the global level that had an impact on the regional (Latin America) and national gender regimes. In addition, the UN related regional

conferences—where Argentine political advocates found a forum for their claims—has been central to the articulation of common discourses in the context of the global gender equality regime.

Democratization in Argentina began in 1983, and brought in many institutional reforms, which helped make progress toward women's equality, the first being the ratification of the CEDAW by the National Congress in 1985. The most recent and important institutional reform was the introduction of the quota system (1991), which altered the structure of political representation, allowing women to enter representative institutions. Yet, the democratization of institutional reforms did not happen only on the national scale. The political autonomy of the city of Buenos Aires—declared in the Federal Constitutional reform in 1994—and the new Buenos Aires City Constitution of 1996 are landmarks for women's rights. The City Constitution explicitly defines women's rights as human rights, including the recognition of reproductive rights. Within this new, local political opportunity structure, the legislative arena in the Buenos Aires city scale became a new venue for women's political activism and the struggle for reproductive rights, and this had ramifications in national debates.

In summary, these institutional changes at different scales opened new opportunities for women to participate in politics, and to make substantial contributions to transforming gender relevant policies. While women contributed to altering institutions, they were also able to articulate common discourses about issues such as reproduction. Due to the new opportunity structure, women were able to attract allies beyond feminists, broadening the political consensus. In this regard, discursive politics

and policies constitute the strategic tool for women activists to pursue an agenda of gender equality in the area of reproductive rights.

Discourse is central to a feminist understanding of policy change, and is therefore a key factor in this study. The concept of universe of political discourse, originally developed by Jane Jenson (1986) to illuminate the politics of biological and social reproduction in Great Britain and France, is used here, and will be developed in chapter one. It is important to note that Jenson sees the universe of political discourse as only national. This thesis, however, applies a multiscale approach that allows one to consider the complex ways of the universe of political discourse at different interconnected scales.

Gender discourses on reproductive rights must be observed in different scales, where the politics of gender equality take place, especially in a period of increased creation of global norms. The analysis of the Argentinean women's movement is positioned in its national and wider contexts. Thus, the politics of scale become central to understanding the content and extent of changes in biological reproduction policies.

Method, Sources and Data Collection

Though it draws on the huge array of literature regarding welfare and gender regimes, this thesis has the broader aim of contributing to the development of a framework to study other Latin American and/or conservative-familial social regimes. It follows a historical-institutionalist approach, supplemented by multi-scalar research design. The application of time and space helps place the Argentinean case in a comparative perspective. The first frame is temporal and focuses on the specific historical legacies embedded in the Argentine gender regime, as this helps understand which actors and discourses are represented. A second frame highlights the relevance of space, for it is

very important to go beyond the exclusively national-oriented approaches to studying public policies. Hence, the notion of space as constituting different scales/levels of political action and policy formation is central to the methodology of the research.

Research was conducted in several steps in Buenos Aires between 2005 and 2007. It included studying government and UN documents detailing the official debates on women's rights and status in Argentina, such as the CNM (Women's National Council) and CEDAW State reports. In addition, NGO's reports submitted to CEDAW were examined, and are discussed in chapter four. Parliamentary debates (National Congress and Buenos Aires City Legislature) were used to analyze how different people involved in the process framed the political discourse around reproduction. Some sessions of the Health Committee of the House of Representatives held in June and July of 2007 were attended, specifically those which discussed the regulation of therapeutic abortion. This data is included in chapter five. The analysis of the parliamentary debates constitutes the core research data, because study of the debates not only illuminates the differing official positions of the participants, but also helps to construct a more reliable scenario of the reproductive rights debate in Argentina.

An examination of relevant newspaper articles proved crucial to understanding the public media debates about controversial events linked to women's increasing advocacy on reproductive rights. In particular, the judicialization of controversial cases, such as therapeutic abortion, received considerable media attention. Newspapers also helped identify potential interviewees. Thirty interviews were conducted with public officials in the Federal Government and the Buenos Aires City Government, as well as women's politicians and deputies, and activists of various women's rights associations in

Buenos Aires City and Córdoba Province. Interviews with key informants complemented the information derived from the official documents, helping to test hypotheses and develop the analysis.

Organization of the Thesis

Chapter one provides detail on the main concepts and ideas that guide the analysis of Argentine reproductive policies. The perspective developed in this chapter contributes to a theoretical understanding of the functioning of the Argentine conservative gender regime, by placing the case within a broader comparative framework. Drawing creatively on the literature, which has focused largely on welfare regimes in North America and Western Europe, the Argentine case can be positioned in terms of the types of social rights and welfare state stratification, and the different arrangements among state, market and the family. An analysis of institutions/scales and political actors as vehicles of change is introduced to explain the dynamic of change and the opportunities for challenging their foundations. The role ideas play in shaping public policies and political discourse to policy change is also highlighted.

Chapters two and three analyze Argentina's gender regime from its origins to the transformations caused by structural adjustment policies, studying its passage from a domestic gender regime to a public gender regime. Chapter two discusses the origins and historical legacies of the gender regime, focusing on the evolution of maternalistic policies and the emerging women's movement. It provides a historical analysis of the evolution of the Argentinean state, from nation building in 1880 to the collapse of the authoritarian regime in 1983. The chapter analyzes the policies, actors and discourses

pressuring the fragmented character of the Argentinean women's movement, and the effects of political and democratic instability on women's rights.

Chapter three concentrates on the gender regime after democratization, and how it has changed due to the structural adjustment policies implemented in Latin America since 1990. The relationship between social and biological reproduction is established here, showing the importance of gender relations to the constitution of the Argentinean welfare regime, as well as how structural reforms affected women's status and gender roles. These transformations resulted in hybridizing an already incomplete welfare regime with important gendered effects. Consequently, the conservative gender regime began to destabilize. With respect to gender regime transformations, the chapter also focuses on the emergence of a new domestic political opportunity structure after democratization in 1983, and the attempts to define a gender equality agenda in the bureaucratic state. After a long history of democratic instability a new democratic regime emerged, providing opportunities to expand women's rights. This was reinforced by the emergence of a global gender equality agenda, and the increasing transnationalization of the women's movement. As part of the new political opportunity structure, the centrality of the National Women's Machinery (Consejo Nacional de la Mujer) CNM as a vehicle for the battle to advance a gender equality agenda is highlighted. In addition, the chapter focuses on the relevance of the legislative quota, and its effect on advancing reproductive rights in the national Congress.

The role of the Argentine women's movement must be set in the wider context of its connection with the regional (Latin American) and international women's movements. Thus, chapter four focuses on the links of the Argentinean women's movement with the

global women's movement, and helps illuminate the many attempts to define a gender equality agenda. The internationalization and regionalization of the women's movement in the context of welfare regime transformation is analyzed. Chapters four and five use the concepts of 'political opportunity structure' and 'universe of political discourse' at different scales, including the Argentinean and Buenos Aires City scales. Focusing on the connectedness of these scales, chapter four explores the content of the global gender regime, and women's actions to jump scales by going beyond borders. Thus, it highlights the transnationalization of the reproductive rights debate to link these developments with reproductive rights in Argentina. It also explains the Argentinean state's opposition to the construction of global norms on gender equality. Chapter five makes use of the concept of universe of political discourse more systematically, focusing on the political debates that have occurred, and are still occurring, in Argentina. An analysis of the parliamentary debates identifies those who supported or opposed reproductive rights. In particular, this chapter underlines the role of international, regional and national women's networks—consisting of feminists, politicians and femocrats—in shaping the debate and contributing to policy change.

Chapter six presents the conclusions of the thesis. It reflects on the dissertation's contribution to the development of a comparative analytical framework that can be used to study other Latin American and/or conservative familial gender regimes. Three sets of conclusions are presented to explain policy and regime change. First, the role of political discourse in providing opportunity to advance a new concept of reproductive rights is discussed. The reproductive rights concept was globalized through international institutions, and then introduced into national politics by the Argentinean women's

movement. The second set of conclusions involves adoption of a multiscale perspective to understand how policies are redefined in the national arena. The third set of conclusions examines how a path-shifting policy and regime change has opened up, a change whereby new policies can be entrenched and preserved in old paradigms, thus challenging the old gender regime.

Table 1: Fertility and maternal mortality rates**Latin America (Selected countries – High human development Index)**

		Total Fertility Rate	Total Fertility Rate	Maternal mortality ratio (per 100,000 live births) Reported	Maternal mortality ratio (per 100,000 live births) Adjusted
HD rank	Country	1970-75	2000-05	1990-2004	2000
36	Argentina	3.1	2.4	44	82
38	Chile	3.6	2.0	17	31
43	Uruguay	3.0	2.3	26	27
48	Costa Rica	4.3	2.3	33	43
53	Mexico	6.6	2.4	65	83

Source: Human Development Index (UNDF 2008)

Table 2
Maternal Mortality by Province
(Per 10,000 live births)
Argentina Years 1991 and 2001

Jurisdiction	1991	2001
Federal	4,8	4,3
Buenos Aires City	1	1,9
Buenos Aires Province	2,2	2,1
Catamarca	7,9	7,3
Córdoba	2,4	2,4
Corrientes	8,9	5,4
Chaco	11,8	15,9
Chubut	2,3	2,4
Entre Ríos	4,2	5,2
Formosa	21,8	13,9
Jujuy	10,4	19,7
La Pampa	3,4	7,5
La Rioja	10,8	3,4
Mendoza	6	3,9
Misiones	9,3	5,3
Neuquén	6,2	1
Río Negro	3,3	3,6
Salta	12,4	6,5
San Juan	5,8	8,7
San Luis	6,6	6
Santa Fe	3,1	4,7
Santiago del Estero	8,2	7,1
Tucumán	3,6	5,8
Tierra del Fuego		0

Source: Dirección de Estadística e Información de Salud de la Nación
www.msal.gov.ar

Chapter One

A Politico-Institutional Perspective on Gender Policy and Gender Regime Change in Argentina

To see individuals as entities that experience and have wellbeing is an important recognition, but to stop there would amount to a very restricted view of the personhood of women. Understanding the agency role is thus central to recognizing people as responsible persons: not only are we well or ill, but also we act or refuse to act, and can choose to act one-way rather than another (Sen 1999, 190).

Introduction

This thesis aims to contribute to the theoretical understanding of the functioning of the Argentine welfare state by positioning the Argentinean case within a broader comparative framework. Despite the extensive academic literature on social policies in Latin America, few studies have addressed specific national cases in relation to the comparative literature on welfare regimes, literature, which has traditionally focused on North America and Western Europe. The mainstream literature on state reform in Latin America has typically focused on fiscal retrenchment, the size of the public sector and the implementation of bureaucratic and social sector reforms to ‘rebuild state capacity’. More recently, some studies have addressed the development of welfare regimes outside North America and Europe (Huber 1996; Gough 2004; Barrientos 2004; Haggard and Kaufman 2008). These studies ignore the gender aspects of welfare policies, however. This thesis will draw creatively on the literature of comparative welfare regimes to help position the Argentinean case in terms of types of social rights, welfare state stratification and particular arrangements among state, market and the family. Moreover, the thesis goes beyond the narrow concept of welfare regime in favour of gender regime, which better

defines the link between social and biological reproduction, and its effects on women's status and gender relations in Latin America, and Argentina in particular.

The first section presents a conceptual framework, to position the Argentinean welfare regime in relation to the comparative literature on North American and European welfare regimes. Although this literature can be of some use for analyzing welfare regimes outside North American and Europe, it needs to be reinterpreted to manage the particular political and institutional conditions of other regions and countries. In particular, insights from two types of critiques made in the academic literature are explored.

The thesis first develops a politico-institutional perspective that helps to redefine the characteristics of Bismarckian welfare regimes in unstable contexts. Low-intensity citizenship and the instability of political regimes and governments have affected welfare state formation and consolidation in countries like Argentina. Similar developments are found in the Mediterranean version of the corporatist welfare regime (Ferrera 1996). Thus, some of the distinctive features of the Mediterranean model can be helpful in studying other welfare regimes outside Western Europe and North America, especially Latin America, and Argentina in particular. Three distinctive characteristics of the Argentine variant of welfare regime, hybridism, fragmentation and familialism, are also components of the Latin American and Mediterranean-European welfare regimes, and are therefore relevant to positioning the Argentinean case.

Secondly, the feminist critique of Esping-Andersen's original typology of welfare regimes provides valuable information about how to apply gender to the Argentinean welfare regime. This thesis therefore incorporates the insights from the feminist critique

of welfare regime theory, and in doing so develops a particular definition of a gender regime—one that is rooted in the recognition of agency (the women's movement) beyond the institutional interplay of market, state or family. The gender regime is understood to not only encompass the welfare regime, but to go beyond it to include biological reproduction as an important component of a gender regime.

The second section discusses the main concepts for understanding both policy change and gender regime change. It explores the role of institutions, discourse and ideas, and considers how actors operate strategically to achieve policy goals and changes. Public policy formation and change are understood to occur in a multiscalar world, whereby the politics of scale involve the simultaneous importance of international, national and sub-national scales of political action. It elaborates on the relevance of the three political scales to understanding the Argentinean gender regime and the framing of the universe of political discourse in Argentina.

Varieties of Welfare Capitalism

The Argentinean State can be positioned within the comparative literature of welfare regimes, notably that which is related to Esping-Andersen's (1990; 1999) contributions. Esping-Andersen was not particularly interested in addressing gender (in)equality. Yet, he moved from a pure analysis of welfare states to an analysis of welfare regimes in 1990, and in 1999 he included the role of the family in welfare provision. According to him, the differential allocation of welfare responsibilities among the three pillars (states, families, markets) results in various forms of welfare regime, with important consequences in terms of the feasibility of social security provision and equity standards.

This helps to understand, "...how state activities are interlocked with the market's and the family's role in social provision" (Esping-Andersen 1990, 31). Working within the historical-institutionalist school of social research, at the most general level a welfare state regime is, "...an institutional matrix of market, state and family forms, which generates welfare outcomes" (Gough 2004, 23). Moreover, "The welfare-state variations [are] not linearly distributed but clustered by regime-type" (Esping-Andersen 1990, 26). Esping-Andersen's regimes are pure ideal types, when what is found in reality are historically constructed mixes. They are intended as 'tools' for comparative-historical analysis.³

Esping-Andersen's typology is based on two main concepts, stratification and de-commodification. For him, "...the welfare state...is, in its own right, a system of stratification. It is an active force in the ordering of social relations" (Esping-Andersen 1990, 23). On this basis, he makes the distinction between 'residual' and 'institutional' welfare states. A more stratified system provides benefits only as a reaction to market or family "failures", and targeted to social groups identified on the basis of need. A less stratified system is pro-active, and committed to the social needs of all strata of the population.⁴ From T.H. Marshall and Karl Polanyi, Esping-Andersen derived the concept of de-commodification, which, "...refers to the degree to which individuals, or families, can uphold a socially acceptable standard of living independent of market participation" (Esping-Andersen 1990, 37). This concept focuses on the social rights of citizens. As Esping-Andersen points out, "...the introduction of modern social rights implies a

³ For a comment on 'pure type' see (Esping-Andersen 1990, 49)

⁴ Orloff provides an extensive explanation of Titmuss' categories and their connection with Esping-Andersen. Mahon also develops the use by Esping-Andersen of categories such as stratification and decommodification (Orloff 1993; Mahon 2001).

loosening of pure commodity status” (1990, 21-22). In other words, de-commodification liberates workers from their dependence on market and job status in order to access to social services.

In this 1999 book Esping-Andersen added a third concept, the de-familiazation of welfare services. According to this, domestic activities such as childcare are not assumed to be the exclusive responsibility of families. Rather, public and/or private services may be provided, which liberates families—especially women—from care responsibilities, allowing them to be included in the labour market. Thus, welfare regimes not only vary in types of stratification and the degree of de-commodification, but also in terms of the degree of familial/de-familialized welfare responsibilities.

Esping-Andersen’s typology resulted in three pure ideal types. The first—derived from the Scandinavian welfare regime model—emphasizes the allocation of welfare responsibilities in the government pillar, including “de-familialized” and “de-commodified” responsibilities. The egalitarian solution of this type of welfare regime is characterized by greater gender equality through support of women in the workforce and public childcare. The wide development of public welfare protection is supported by, “...a policy of maximizing citizen’s employability and productivity”, which provides the extensive tax basis for developing social programs.

The second model, the dominant liberal variant in the US, UK and Canada, seeks to empower the market as the main welfare provider. This model emphasizes privatization and consumer choice while maintaining a residual public role, with benefits directed to those most in need. The emphasis on private solutions results from the goal of fiscal restraint (efficiency), and has negative consequences for equity. There is a fiscal paradox

in this model because, despite the liberal welfare regimes' focus on reduction of fiscal deficits, they also limit their potential to collect revenues, which in turn impacts the state's capacity to develop welfare policies in the future. This results in citizens leaving the market, thus increasing the tax base deficit of a minimized state structure (Esping-Andersen 2002, 15-16).

The third type is the continental European welfare state, inspired by the Bismarckian model of social security. It is a model in which de-commodification is achieved through a stratified set of social insurance practices. In Southern Europe, however, there is greater focus on traditional family welfare responsibilities. Based on social contributions and earnings-related benefits, this model is challenged by the new risks of post-industrial economies, and impacted by the fiscal deficits of a narrow tax base and high expenditures for extensive pension systems. In addition, it is an unbalanced approach. As Esping-Andersen points out, "...it offers inadequate security for those with a tenuous connection to the labour market, such as women and workers with irregular careers. Worse, social insurance responds poorly to the emerging demographic and employment structure". (Esping Andersen 2002, 16)

In the three ideal types, different forms of stratification, de-familializing, and de-commodifying effects can be observed. Though both the conservative and social democratic types can be considered welfare state regimes, the social democratic is universalistic and egalitarian, while the conservative preserves status and class differentials. The liberal welfare regime is the most stratified, and matches Titmuss' residual welfare regime type. The most highly de-commodifying system yields generous benefits on the basis of national citizenship. The corporative-conservative regime has a

strong connection with social citizenship, though it does not de-commodify labor, since most of the social benefits are related to earnings. The least de-commodified is the liberal regime, which relies strongly on market mechanisms for the provision of welfare, providing limited benefits on a means-tested basis.

As Esping-Andersen points out, “Neo-liberals advocate the primacy of markets (and usually ignore the family), while conservatives favour more family and local community social responsibility. Social democracy’s long-standing preference for collective solutions is anchored in its fear that both the family and the market alternative offer insufficient security while fostering inequalitarian results” (Esping-Andersen 2002, 13). The typical familial solution of the conservative type of welfare regime, “...may be problematic in so far as it delays independence, job insertion and family formation” (Esping-Andersen 2002, 13) As we shall see, among the conservative types the Southern European grouping is remarkable for its high degree of familialism (see Orloff 2001, 8).

Limits of Welfare Regime Theory: Institutional Instability and the Legacy of Authoritarianism

As argued previously, little research has been done in Latin America using the comparative literature of welfare regimes. Nevertheless, variations in Latin American welfare regimes, and in welfare states other than Western Europe and North America, can be identified using comparative-historical analysis. Once adjusted to suit, these frameworks can also be applied to the analysis of the Argentinean welfare regime.

The concept of welfare regime was originally developed to deal with variations in context of relatively stable political and state institutions, and to contribute to the formation of enduring public policies. Institutional stability—particularly in political

institutions—is less likely to be found outside Western Europe and North America, however. The instability of political regime and institutions, which has affected the formation and consolidation of ‘Bismarckian’ welfare regimes like Argentina’s, must be taken into account.

The relative stability or instability of political institutions has an effect on our understanding of policy change. A critical point in Esping-Andersen’s analysis of welfare regimes is his idea of the persistence of a welfare organization over time. This is quite often true of the continental-corporative welfare regime, which he refers to as a “frozen continental landscape” (Esping-Andersen 1996). From this perspective, welfare regimes are ‘resistant’ to change under external pressure to reform. Examples of rigid corporative welfare regimes are those of Germany, France and Italy. In a stable institutional configuration welfare regimes are ‘frozen’, and actual change might only be possible within the set of institutional configurations of the welfare regime type. For example, while the liberal and social-democratic welfare regimes have overcome the new challenges of a global economy by introducing reforms inspired by their own traditions (i.e. path-dependent change), the corporative welfare regime seemed to be, “...locked into their difficulties by the very weight of that tradition” (Palier 2007, 8).

Application of new historical-institutionalism as a theoretical approach helps identify continuity and path-dependence in highly stable institutional environments. The assumption of institutional stability is problematic for Latin America, however, due to historical institutional instability in the region, particularly in Argentina. More broadly, institutions outside North America and Western Europe tend to be weaker, lacking at

least these two important characteristics of long-standing institutions: enforcement and stability.

In stable environments institutions tend to be ‘sticky’, and while preferences might change institutional settings remain stable and resistant to change. At best, change tends to be slow and incremental (Pierson 1994). Thus, “Institutional weakness is widespread in much of the developing and post-communist world. Indeed, cases of stable and widely enforced political institutions [...] are relatively uncommon” (Levitsky and Murillo 2006, 14). The lack of stable and enforced institutions strongly affects the formation and development of welfare states, and—as in Argentina—this has contributed to limiting the extent of social services and an unbalanced system of social provision.

In the Southern Cone of South America, countries such as Argentina, Chile and Uruguay all developed welfare state regimes until the 1970’s. Political instability has hampered Latin America’s ability to build welfare states, however, and this has resulted in markedly hybridized regimes. This trend has increased since the implementation of market-oriented reforms in the 1990’s. The lack of institutional stability in Latin America has important consequences that inform our understanding of policy and regime change (Levitsky and Murillo 2005, 278). If institutions control political activity, then political instability can actually facilitate policy change. The more unstable the political-institutional environment is, the more quickly change will occur, since institutional fluidity—as well as uncertainty and disorder—can also be a source of flexibility and innovation, especially during crises (Levitsky and Murillo 2005, 282).

This important difference between stable and unstable regimes—that weaker, unstable institutional environments may provide better opportunities for the introduction

of new ideas—creates the potential for international actors to influence domestic politics and policies. Ian Gough has argued that welfare regimes in the developing world emerged in unpredictable political environments, where powerful international veto actors have interacted with weaker domestic actors, resulting in conflict and political instability. “Insecure regimes are rarely confined within national boundaries” (Gough 2004, 34). Vulnerability to international influence, as well as the domestic instability of the political institutions, are important differences between welfare regimes of advanced political economies and those of Latin America.

This is not to suggest that exposure to international factors necessarily results in radical changes in domestic welfare regimes. As the experience of other countries suggests, pressures for ‘neo-liberal’ globalization and the transnational flow of ideas have resulted in various degrees and modes of change. As Mahon (2008) argues, “...in some instances [international factors] appear to have led the way for radical path-shifting reforms, whereas in others they have triggered the formation of hybrid models, incorporating more ‘incremental’ reforms” (5). In fact, hybridism tends to be more typical of Bismarckian welfare regimes, especially in unstable contexts such as Southern Europe (Ferrera 1996).

European literature on welfare regimes has highlighted how exceptional the Mediterranean welfare regimes are. It is argued here that limits to the extension of social benefits on the basis of full citizenship have also been a characteristic of certain Bismarckian welfare regimes, such as the Mediterranean family of states. Indeed Maurizio Ferrera (1996) has critiqued Esping Andersen’s typology (conservative-corporative), asserting the distinctiveness of the Southern European model.

As post-authoritarian regimes, countries such as Spain, Portugal, Greece, and Italy have been characterized by their ingoing clientelistic relationships, which involve satisfying particular interests and limiting the universalistic aspirations of the welfare regime, as in the health sector for example. There has been an imbalance of income-maintenance, with peaks of generosity accompanied by a lack of social protection. In addition, the legacy of authoritarianism has impacted the modes of representation protecting special interests. Post-authoritarianism and clientelism reflect the weakness of the state or 'stateness'. In Ferrera's words, "The failure of these nations to modernize the civil service in a 'Weberian' sense prior to the mass expansion of welfare programs has offered a fertile ground for the persistence of clientelistic relations, possibly contributing to their further consolidation and sophistication" (Ferrera 1996, 30). This system also fostered clientelistic relations between civil society groups and the bureaucratic state with respect to social welfare allocations, and a, "...low degree of penetration of the welfare sphere", which further reveals the weakness of the state, particularly in terms of bureaucratic professionalism and autonomy (Ferrera 1996, 30).

A second modification relates to the nature of the political regime. For the most part, the comparative literature on welfare capitalism applies to well-established democratic countries. Thus, a long-standing democratic regime is likely to be more institutionally stable as a whole, which encourages the settlement of constituencies subject to different welfare policies. In Latin America—especially in the Southern Cone—the difficulty of maintaining enduring democratic regimes appears to have affected welfare regime formation and consolidation. Moreover, in countries like Brazil and Argentina, the corporate model of inclusion favored the settlement of economic and

social rights in an environment of uneven political rights. Overall, this political-institutional process—characterized by authoritarianism, post-authoritarianism, institutional weakness and uncertainty—tended to affect the delivery of welfare services, resulting in low public expenditures, high-income inequality and poor socioeconomic performance. All these factors are currently present in Latin America (Isuani and Tenti Fanfani 1989). Though the state has been active in Latin American welfare, social outcomes have generally been, “...less equitable, less generous and also less efficient than those that prevailed in an earlier generation of European welfare states” (Pearson 2005, 403), apparently due to catering to special interests, both domestic and international.

This situation contrasts with the evolution of rights as developed by Marshall (1991). The sequence of civil, political and social rights he outlines was not necessarily followed in countries outside Western Europe and North America, and in many instances this caused an uneven establishment of certain rights, with some being adopted while others were neglected. Limited citizenship, or ‘citizenship of low-intensity’ as O’Donnell put it, refers to intermittent and/or biased rules of law. Under such a system, political rights (e.g. an individual’s vote) can coexist with an uneven application of civil rights, and the denial of basic social rights for certain sectors of the population. For example, in many countries citizens are not protected from police violence and/or several forms of private violence (O’Donnell 2001, 601-2). A particular phenomenon common to the new democracies of South America is that, even in post-authoritarian societies, clientelistic relations can persist and cause an uneven distribution of both civil and social rights. An important characteristic of these new democracies is that, although they hold regular and

free elections, they lack other formal and substantive rights, making them different from democracies in the Northwestern part of the world (O'Donnell 1996).

The instability of a democratic regime and limits of citizenship have important consequences for our understanding of policy and regime change. The vulnerability of the pre-existing welfare regimes, and their exposure to international factors, influences domestic change by creating opportunities for the introduction of new ideas and the mobilization of political actors. In this thesis, it is argued that significant policy change in one sphere (e.g. biological reproduction (birth control)), can create challenges for the old conservative gender regime.

From the present analysis it is possible to formulate a general characterization of conservative welfare regimes in unstable institutional contexts. This will be developed in the next section.

The Bismarckian Welfare Regime in Unstable Contexts

As emphasized by Maurizio Ferrera (1996), certain politico-institutional dynamics have a distinct impact on the nature of some Bismarckian welfare regimes, notably the conservative regimes of Southern Europe. Similarly, the literature focusing on Latin American welfare regimes highlights the fragmented nature of their welfare provision systems (Barrientos 2004). It also suggests that the instability of political and bureaucratic institutions could provide opportunities for change, along with greater vulnerability to international factors and ideas. There is no doubt that the implementation of economic reforms during the 1990's aimed at dismantling the old welfare state has

resulted in hybrid welfare regimes, made up of a mix of old social services that parallel the Bismarckian welfare states, and new liberal components.

Ian Gough suggests that in the 1970's, Central and Eastern Europe and Latin America—at least the Southern Cone—had identifiable welfare state regimes with basic levels of social security for most workers. These regimes were shaped by domestic preferences and interests, which helped to preserve their welfare systems even in the face of overwhelming external pressures (2004, 35). Indeed, the enhancement of reforms in Latin America since the 1990's came about very slowly, and with much resistance to change. This was particularly true in countries like Argentina, with its powerful veto constituencies linked to the old welfare state (e.g. trade unions). Pressures for reform resulted in hybridizing already incomplete welfare regimes (Isuani 1992).

Argentina is characterized by widespread institutional weakness. This is a central legacy of the political regime, and has important consequences for the formation and development of the welfare regime. Observers have noted that during the twentieth century, Argentina experienced a remarkably high level of institutional instability, even for Latin America. Successive military coups—fourteen military presidents governed the country between 1930 and 1983—meant that leaders, legislators and Supreme Court justices were often replaced before the end of their mandates. Between 1928 and 2007, only three elected presidents, Juan Perón, Carlos Menem and, most recently, Néstor Kirchner completed full terms in office. Moreover, Argentina was the wealthiest country in the world to undergo military takeover. As a result, the political and economic consequences of institutional weakness were often violent and destructive. As Levitsky and Murillo note, “In the absence of stable rules of the game, politics became a

Hobbesian world of high uncertainty, narrow time horizons, and low trust in which political and economic actors routinely engaged in short-sighted and socially irresponsible behavior” (2006, 1-2).

The distinctive characteristics of the Argentine welfare regime, then, have been the limitation on social benefits on the basis of citizenship and the constraints of the labour market, resulting in a fragmented welfare regime. Thus, political instability has had an important effect on the formation and development of the fragmented welfare regime in Argentina.

A Non-universal Welfare Regime and Low-intensity Citizenship

Inequality and limited citizenship have been considered characteristics of Latin America, as O'Donnell argued in his analysis of the South American new democracies. Although there is no analytical correlation between liberal rights and economic and social democratization, it is true that in the new South American democracies, “...the extreme disparity in the distribution of...resources goes hand in hand with low-intensity citizenship” (O'Donnell 1993, 1361). In the case of reproductive rights, weak civil rights are related to the socioeconomic status of women, as poorer women are more affected by a lack of reproductive rights due to their limited power in the market. The relationship between inequality and citizenship is reflected in the limited provision of social security to the people. In the Latin American welfare regimes, formal institutions and programs of social welfare only cover workers and their dependants who are in the formal sector, which excludes a majority of the population from social insurance and employment

protection. These are offered with only limited access to basic social services (Barrientos 2004, 140).

Problems related to periods of authoritarianism in Latin American countries are compounded by bureaucratic weakness. While democracies characterized by strong partisan politics have been associated with the development of the welfare state in Western Europe, in Argentina political instability contributed to the fragmentation of the welfare regime, and the imbalance of the insurance system. In this context, the authoritarian past during which the welfare state evolved, and the impact of the democratization process, constitute important aspects of the politico-institutional environment of welfare reforms in Argentina. More specifically, intermittent periods of democracy and authoritarianism have resulted in low intensity citizenship in Argentina. It is clear that the persistent democratic instability of the political regime and its limiting effect on the development of a bureaucratic (Weberian) national state are important to the development of the Argentinean welfare regime.

Under Perón (1945-1955) the Argentinean welfare regime developed an extensive social security system. Yet while he extended social rights, Perón also weakened institutions he perceived as obstacles to his political goals. For example, he attempted to remain in power by altering the electoral and constitutional rules. While Peron was in exile (1955-1973) political polarization and democratic instability contributed to the development of a chaotic system of welfare provision. Later, after democratization occurred in 1983, low intensity citizenship and weak democratic accountability provided the context for the radical liberalization of the 1990's.

Stratification and the Hybrid Welfare Regime

The politico-institutional characteristics of the 'hybrid' Bismarckian welfare regime produced a particular system of stratification, highlighting a clear division between those who were 'insiders' (beneficiaries) and those who were 'outsiders' (excluded from benefits) of the regime.

Referring to the conservative welfare regimes of Continental Europe, Esping Andersen remarked that those welfare regimes are impacted by high fiscal deficits, due to a narrow tax base and high expenditures for extensive pension systems. They are also unbalanced, providing insufficient security for those with a fragile connection to the labour market, such as women and irregular workers. This type of situation has become serious in Latin America as well, particularly in Argentina, due to the instability of the labour market and the spread of the black market economy.

Some authors also classify traditional Latin American regimes as equivalent to the Mediterranean corporative welfare regimes. For example, Armando Barrientos (2004) attempts to position Latin American welfare regimes by comparing them with the Mediterranean version of corporative welfare regimes. The stratified nature of social insurance and employment protection, as well as family support benefits such as monthly allowances and maternity protection legislation, are characteristics similar to those of conservative welfare regimes. Limited coverage was also identified in Southern European countries, an example being the fragmented nature of the health sector (Barrientos 2004, 139-140).

Due to the introduction of market-oriented economic reforms, liberal components of welfare provision were also introduced. This altered the original nature of the welfare

regimes, and resulted in hybrid systems. Barrientos (2004) highlights the dual character of Latin American welfare regimes by defining the liberal elements as a consequence of the structural adjustment package promoted by the International Monetary Fund (IMF) and the World Bank, implemented in the region in the 1980's. He argues, "This 'informal' [Latin American] welfare regime shares with Esping-Andersen's liberal regime a very narrow identification of social risks, and the primacy of the market as a source of insurance against social risks" (140). Barrientos (2004), however, states that the Latin American welfare regimes are being transformed into *informal* liberal welfare regimes, because Latin America does not have social assistance programs. Instead, the majority of the population is excluded from the social security system, and social risks are left to families and social networks to manage.

It is important to note, however, that family support policies were entrenched in the welfare regimes through programs like family allowance, particularly in the most developed welfare regimes. Recently, with the support of international organizations, family support policies in the form of conditional cash transfers to needy families have been implemented in countries such as Chile, Brazil and Mexico, as well as Argentina. Yet, these family support programs coexist with the fragmentation and dualism of the welfare regime.

The duality and hybridism of these welfare regimes are not particular to only the Latin American variant of welfare regimes. Rather, these aspects are characteristic of the way change can affect the original nature of Bismarckian welfare states. Palier has recently remarked on the 'hybrid' nature of the transformed corporative welfare regimes of Western Europe, which were a result of the implementation of market oriented

macroeconomic reforms. These changes are associated with paradigmatic or institutional policy reforms. Although new goals are not explicitly defined, these reforms also imply a change in social policy goals. In order to deal with the scope of the problems faced by Bismarckian welfare regimes, new programs have been adopted: mean-tested benefits, privately funded schemes in pension and health systems, and new management arrangements such as the combination of tax based funding and social contributions (Palier 2005). Argentina has also followed this path, which has resulted in a very fragmented and stratified welfare regime.

Familialism

The continental type of welfare regime—also found in other countries of Latin America—is characterized by a high degree of familialism. This results in less ‘family-friendly’ policies, which means individuals have less freedom from family responsibilities. Moreover, it implies less economic independence for women. Familialism thus combines the social protection of the male breadwinner with centralized family protection and responsibility for social wellbeing.

As an *economic unit*, the ‘family’ is composed of dependents (children, wives, parents and disabled adults) as well as (male) ‘family heads’ who redistribute income. As a *care-giving unit*, families include the same dependants, and those who ‘redistribute’ care (i.e. women, wives and adult daughters). The ‘ideally’ married women are expected to be the main care providers for family members and relatives, and to manage most of the care-based needs of individuals. Children, the elderly and disabled persons, as well as healthy adult men, are defined as being best served by wives, mothers and/or daughters.

Social rights are dependent upon a family relationship (e.g. wife, daughter). Similarly, “...the unity of the family was based on the ‘women’s willingness’ to reduce their individual rights in favour of their husbands’ rights” (Saraceno 1994, 72). Thus, limited or unavailable non-parental childcare and a lack of reconciliation of work and family life characterize this regime. In addition, as a consequence of welfare restructuring and emerging social risks associated with the decline of the male breadwinner family form, these welfare regimes face particular challenges. As Mahon points out, “The conservative regime that predominates in continental Europe shields the male breadwinner family, thus blocking the expansion of the social and personal service sector” (Mahon 2001, 25).

This traditional family form, with its specific domestic role for women, no longer exists in its pure state. The transformation of a domestic gender regime into a public one constitutes an important aspect of regime transformation, and is particularly relevant for the analysis of Argentina.

Bringing Gender into Welfare State Analysis

A second broad critique of Esping-Andersen’s original typology of welfare regimes was due to feminist analysis of gender roles and power relations within the family, and moved from a pure analysis of welfare regimes to an examination of gender regimes. For Esping-Andersen, the crucial relationship is between paid work and welfare, from which he derives the concept of de-commodification. This concept is problematic for feminist scholars, because it obscures the fact that women are the main welfare providers in the family, and that they also do the bulk of the unpaid work (see also Gough 2004, 25). For example, Orloff argues that Esping-Andersen sees women as ‘choosing’ between work

and household, without questioning gender relations within the household (Orloff 1993, 313). Feminist scholars argue that the de-commodification of women—indirectly, due to de-commodification of the male breadwinner—who do the unpaid, caring work makes them dependent on men within the household.

To some extent, the feminist critique of welfare regime types forced Esping-Andersen to reconsider his understanding of welfare regimes. Though he did not change his main typology, he later added an extensive analysis of the nexus between markets, states and the family. Although Esping-Andersen included households, he was not interested in critically analyzing gender relations within welfare regimes. Rather, using the concept of ‘familialism’ or ‘de-familialization’, he chose to, “...examine the degree to which families absorb social risks” (Esping-Andersen 1999, 51). As Orloff pointed out, however, “Although Esping-Andersen is right to recognize the effects of services on women’s abilities to enter the paid labour force, his classification scheme does not reflect differences in how care is provided” (Orloff 1993, 312). Thus, for feminists the crucial relations are those of paid work, unpaid work and welfare. Jane Lewis suggests that this set of relations is gendered, because, “...it is possible to argue that the divisions in paid work have substantially diminished to the extent that greater numbers of women have entered the labour market...all the evidence suggests that the division of unpaid work remains substantially the same” (Lewis 1992, 160).

The relationship between women’s paid and unpaid work is central to Jane Lewis’ gendered analysis of welfare regimes. Her feminist typology is based upon the different levels of commitment to the ‘male breadwinner/female housewife household’ form. Unadulterated, it would, “...find married women excluded from the labour market, firmly

subordinated to their husbands for the purposes of social security entitlements and tax, and expected to undertake the work of caring (for children and other dependants) at home without public support” (Lewis 1992, 162). Lewis focuses on the family and gender ideologies that support policy formulation and the organization of social care. She looks at, “...the way in which welfare states have treated women as wives and mothers, and as paid workers”⁵ (Lewis 1992, 162).

Lewis’ analysis is effective for comparing countries in terms of the extent to which they have promoted a male breadwinner form of social care. Analysis of gender relations within welfare regimes focuses on the type of social benefits, and the conditions under which women receive social protection. The reasons for people’s claims for services are critical in the analysis of gender relations within welfare regimes. As shall be discussed, this is crucial for the analysis of the Argentinean gender regime.

The second important point highlighted by feminist scholars is related to stratification, and its effect on gender hierarchies. Feminist scholars have been concerned about two important conditions that might affect stratification: the differences between full time paid workers over those who combine part-time paid work and unpaid work (domestic labor), and the sexual division of labour within the household (Orloff 1993, 314). Women tend to occupy the part-time jobs, and these often lack social insurance in countries with liberal or corporate regimes. Further, women’s access to paid work

⁵ Comparing Britain, Ireland, France and Sweden, she concludes that Britain and Ireland are the most committed to the male breadwinner form and France only moderately (a modified male-breadwinner country). Sweden offers a weak version of the male-breadwinner form. Lewis uses the male-breadwinner model as an indicator of the way in which women have been treated in social security systems. Measures of the male breadwinner model are “the level of social service provision particularly in regard to childcare and; of the nature of the married women position in the labour market” (Lewis 1992, 162)

depends upon the extent of public and/or private provision of social care, which can liberate women from care responsibilities within the family. As Orloff (2001) argues, “...when women’s employment is promoted, care is delegated to some extent to institutions [public, non-profit or private] other than the family” (11).

This perspective on gendered welfare regimes has been used extensively in academic literature related to the welfare regimes of North America and Western Europe. These resources highlight how women’s access to paid work has been a central concern of feminist scholars in advanced political economies. Other feminist scholars, however, have questioned the narrow focus on labour markets and welfare state services in providing care to liberate women from household duties. Sylvia Walby (2004) claims that there are other types of state activity that impact the balance between paid and unpaid work, and these should also be analyzed. For example, an important factor that affects women’s employment is the regulation of fertility and body integrity through state intervention in biological reproduction. This is a link between sexuality and women’s work that should be explained. As will be discussed, in Latin America this relationship is critical to women’s independence, since reproductive rights were historically neglected. Further, this thesis argues that in countries such as Argentina, reproductive rights can be an indicator of a welfare state regime.

Gender Regimes and Gender Regime Change

This thesis is concerned with explaining the creation and transformation of the Argentinean gender regime. As Esping-Andersen’s original contribution did not consider gender issues, the thesis includes the perspectives of several feminists who have

identified the welfare state's role in constructing and reproducing gender inequalities. It applies the concept of gender regime, which can be broadly defined as the set of norms, rules and policies that shape gender relations. In this regard, the welfare state plays an important role in forming particular gender relations, through public policies such as social benefits, and by intervening and regulating private life through biological reproduction (O'Connor et. al. 1999). Thus, the concept of gender regime highlights the link between social and biological reproduction, which is the focus of this thesis.

Sheila Shaver has identified three main components of a gender regime, which demonstrate how it goes beyond the welfare state. First, the civil and political status of gendered individuals in liberal democracies; second, labour relations and the economic organization of the patriarchal capitalist state, including the relationship between domestic (unpaid) work and paid employment; and third, issues of sexuality, fertility and human reproduction (1994, 68-9). This thesis focuses on the latter, while staying aware of the links between the biological and social components of women's reproductive role.

Gender regimes vary, and they are historically constructed. Gender regime theorists argue that in most industrialized countries, there is an ongoing transition from a domestic to a public gender regime (Walby 2002). The traditional regime resembles the strong male breadwinner family form originally described by Jane Lewis (1992). In this model, women are relegated from the public sphere and fully committed to reproductive activities within the household. In contrast, the public gender regime implies a progressive inclusion of women in the public sphere through paid employment and political activism.

The movement toward a public gender regime creates two related phenomena which can be explored, and which constitute important aspects of the relationship between the productive and reproductive role of women: women in the labour market, and women in the political arena. The second (women in the political arena) highlights the relevance of women's agency within the concept of gender regime. As Shaver argued, "The value of the regime concept lies in its capacity to link power and the politics of development on one side, with the circumstances, opportunities and behavioral choices of the citizen as potential claimant on the other" (2002, 208). The specific ways in which women were included in the public domain are historically significant, and contribute to how these changes are managed. Women's agency is central to this analysis, and it is argued that feminist interventions to claim equality policies, which entail the use of political rights, constitute a key component of a gender regime.

This thesis identifies the structure that shapes women's inclusion in the labour market—including childcare and parental leaves as part of the general family support package—as a component of the gender regime. This is relevant for the analysis of the Argentinean case. Regarding biological reproduction, which is the primary focus of this work, the lack of reproductive rights has also had an effect on women's public activities, or, as feminist scholars have argued, women's independence (Orloff 1996). The thesis also argues that reproduction is considered a critical aspect of the Argentinean gender regime, since the lack of reproductive rights has reflected the pro-natalist views that dominated Argentina's demographic policies throughout the twentieth century. Along with moderate levels of women's participation in the labour force, the conservative nature of the gender regime was based on the predominance of traditional roles for women being

linked to the pro-natalist goals of population policies. Thus, the Argentinean gender regime is defined as a conservative regime, due to its strong commitment to the male breadwinner family form. Since the origin of the welfare state, women's role has been primarily understood as domestic, and women's paid work was originally only acceptable as a supplement to male wages. Moreover, there are limited childcare services and minimal maternity leave for working parents. The development of legislation to protect maternity was the result of early socialist struggles to protect working mothers and their children. Social insurance, when not directed to the male breadwinner, covered both working mothers and citizen mothers.

This thesis argues that changes in the Argentine gender regime are the result of two elements. The first involves contextual factors related to state economic restructuring, which challenged the fundamentals of the old welfare regime. An analysis of the main changes in labour market and family support policies implemented in the 1990's is therefore crucial to understanding the characteristics and transformation of the Argentine gender regime, a development which will be discussed in chapter three. Changes in social policies have also altered the link between social and biological reproduction. Since the 1990's, structural adjustment policies implemented in the region have forced poorer women into the formal labour market to compensate for lost male income. This has affected the way families deal with a new set of social risks. In Latin America, particularly among low-income groups, households have provided the primary protection from social risks in the absence of wide-reaching social assistance programs, increasing informality of the labour market and inequality. Thus, the critical economic situation not only altered social reproduction, but also affected reproductive policies,

since poor women are most affected by the lack of childcare services and reproductive health services.

The second element, which is of particular importance, considers how changes associated with the political opportunity structure and the universe of political discourse—particularly changes related to reproductive rights—contributed to altering the traditional gender regime. The Argentine women's movement played a crucial role in this regard. Several authors (Shaver 2002; Korpi 2001) have suggested different areas in which gendered agency inequalities are influential, including the education system, the labour force and democratic politics. Since the 1980's, democratization and the politics of human rights have provided a firm basis for women's claims in Latin America and Argentina.

This thesis suggests that women's interventions operate at various scales: transnational, supra-national, national and sub-national. Through political activism, women around the world redefined the concept of 'reproductive rights', causing a transnationalization of the concept (Haussman 2005). Discursive politics—central to a feminist understanding of political activism and women's ideologies—are important in shaping women's preferences for certain policies, as demonstrated by the resistance to abortion-on-demand. Lewis' analysis suggests that a particular type of gender ideology supports a specific type of policy formulation, including the organization of social care. In addition, it is argued that women's ideologies are central to understanding the politics of biological reproduction.

North-South Perspectives on Biological Reproduction

According to Shaver, reproductive rights are a form of citizenship entailing civil, political and social rights. In this regard, "...civil rights create the basis upon which claims may be made for the state to replace the market with a minimum standard of access to services, a 'social right' to secure an abortion" (1994, 70). Social rights involve the de-commodification of this provision, which is related to the nature of the health sector. In addition, civil rights affect political rights; their recognition empowers diverse individuals and groups (women activists) to claim services from the state.

Three perspectives on biological reproduction and body rights are present in both advanced and less developed political economies: demography, women's health and civil and social rights. Considering the first, demographic views of reproduction have been predominant everywhere, including Argentina, where pro-natalism has existed since the origin of the nation state. Demographic concerns, however, can be addressed in a variety of ways, from democratic solutions where the provision of childcare services and parental leave is a part of family support policies, to authoritarian solutions such as the prohibition of contraception/forced sterilization. As well, fertility has always been a major concern in capitalist societies, and this has led to the development of policies related to the protection of working-mothers (Jenson 1986). Argentina has also experienced this trend.

The second perspective, related to women's health, involves a medical view of abortion that has actually been used to liberalize the practice in many industrialized nations (the United States is a possible exception, as the rising pro-choice movement shaped the debate in terms of reproductive rights (Shaver 1994)). Women's access to health care raises issues regarding inequality and gender discrimination. The study of state regulation of reproduction shows how social rights are recognized when states face

demands for contraception services and abortion and, more recently, the use of advanced technology such as assisted fertilization.

The third important perspective concerns civil and social rights, which are predominate in the United States but also have ramifications in current international and Latin American debate, including Argentina. This perspective encouraged formation of the so-called pro-choice movement, which demands women's rights regarding reproductive decisions. From the perspective of civil rights, for example, women's demands for their own reproductive choices have been opposed by counter-claims about the competing rights of the fetus, of a male sexual partner and of the parents of a pregnant minor. Claims to social rights in support of abortion services have further evoked responses focused on the moral rights of medical personnel and taxpayers (O'Connor et. al 1999; Shaver 1994).

The three perspectives are related, and all play an important role in the framing of political discourse aimed at advancing or blocking reproductive rights. Both the historical and recent Argentinean experiences of the regulation of biological reproduction will reflect these diverse perspectives.

While social reproduction (e.g. childcare) currently receives considerable attention from feminist scholars interested in the welfare regimes of Europe and North America, concern over biological reproduction issues has declined as the legalization of abortion and family planning services has become more common. Nevertheless, in addition to contributing to shape the male breadwinner family form, women's reproductive capacity was also central in welfare states' emergence at the end of nineteenth century and beginning of the twentieth century. As O'Connor et. al. point out,

“Historically welfare states have concerned themselves with maternal and child health; with natalism, eugenics and the peopling of the nation; and with the regulation of contraception, abortion, adoption, wet-nursing, homosexuality and incest” (1999, 157)

Maternal legislation and child health services actually have their origins in the same period as the first old-age programs, and women have participated in shaping that aspect of welfare regimes more than other social policies. In advanced political economies, the first step to legalizing abortion practices was limited to medical reasons.

While academic scholars interested in gender regimes have paid limited attention to biological reproduction, feminist academics concerned with abortion politics have analyzed the political process of liberalizing abortion, including the involvement of the feminist and women’s movements in achieving reform. Academic concerns with abortion politics relate to the conditions that made it possible to achieve reform and, more importantly, to stabilize compromise around reforms. For example, Outshoorn argues that in Western Europe abortion reforms were enacted in parliaments, which make them difficult to undo. “In all cases parliamentary decisions were hotly debated over a prolonged period of time, making the public well aware of the issue and leading to a solid front of social movements and interest groups on both sides of the subject” (Outshoorn 1996, 161).

As the experience of advanced political economies suggests, in all cases an alliance between women’s groups and left-wing political parties was critical to the advance of abortion reforms. In addition, in some countries with judicial review, anti-abortionist movements challenged parliamentary decisions in court in an attempt to neutralize reforms. These characteristics of the policy process are also present in the

Argentinean case, and are discussed in chapter five. Important differences exist regarding the issue of biological reproduction, between processes that took place in advanced political economies during the 1970's, and the current debates in developing countries such as Argentina.

In contrast to advanced political economies, in Latin America and Argentina feminist ideologies have been weak among women's organizations, and the alliance of progressive women activists with members of the left has been sporadic. The politics of abortion and reproductive rights have essentially been 'solved' in advanced industrialized countries, as reflected in the extension of health services and the achievement of effective indicators of women's reproductive health. In developing countries, however, reproduction remains an 'unsolved' issue for many women, a view that is being exposed by feminist activists and policy-makers, as increasing poverty and inequality affect women's lives and health. Indicators such as fertility and maternal mortality are a part of international and regional discourses on women, development and reproductive health. The shift in international debates on population policies since the Cairo Conference (1994), and the emergence and transnationalization of the concept of reproductive rights, helped provide opportunities for the women's movement to make claims within national boundaries.

Welfare, Gender Regimes and Biological Reproduction in Development Contexts

The emerging global economy and the introduction of market-oriented and welfare retrenchment policies elsewhere have put pressure on the male breadwinner form. As a result, new family forms, such as the adult earner family model, have emerged, in some

cases with women as head of the household. Increasing inequality in developing countries—where the degree of familialism is higher than in countries with more developed social security systems—has had severe effects on women. According to welfare regime typology, the conservative welfare regime is characterized by a high degree of familialism and a strong male breadwinner form. Despite the changes in families and the increasing inclusion of women in the labour market, the conservative welfare regime has been shown to be inadequate in dealing with emerging problems associated with economic restructuring. Though some changes have been observed, they are still associated with the endurance of gender differences, and reinforced by the use of neo-familial solutions. Regarding this, Mahon (2005) observes that, “Neo-familialism shares with neo-liberalism an emphasis on ‘choice’, but here the choice is understood not as in terms of markets for care but as women’s right to choose between a temporary housewife-mother role and labour force participation, with the balance tipped in favour of the former” (4). Limited public childcare is available, however, and the goal of maternal care is understood to be in the best interest of the child.⁶

In Latin America, the household remains an important sanctuary from social risks among low-income groups (Sunkel 2006). In the absence of wide-reaching social assistance programs, and as labour markets are increasingly characterized by informality and inequality, extended households and intra-family arrangements provide the best protection against social risks. The capacity of households to protect against social risks has been declining, however (Barrientos 2004, 128-9). Feminist scholars, writing in the

⁶ In contrast, under the “egalitarian” model, identified with the Scandinavian countries, public forms of childcare are provided on a universalistic basis, also promoting parental (gender neutral) leave.

development discourse, have also emphasized how the changing relationship of formal women's paid work, informal women's paid work and household roles has affected women's status and gender power relations in both the Northern and Southern hemisphere (Connelly 1996; Gen 1996).

Gender and development discourses became a part of the public agenda through a renewed global women's movement. Of relevance to this thesis is the role played by the Latin American women's movement, which has framed its political discourse to focus women's demands within a broader critique of neoliberal policies. It linked the relationship between production and reproduction, and the changes therein, with the effects of globalization, and then exposed some critical women's issues, such as the need for affordable childcare. Women's activism in this matter has been well developed in the global north, while the lack of reproductive rights and limited women's access to guaranteed contraception and counseling services has been a concern in many parts of the south. From the feminist point of view, reproductive autonomy is essential to women's freedom in a modern society, and it is still an 'unsolved' issue for many women outside Europe and North America. Increasingly often, reproductive policies in Argentina have been characterized by limited access to contraception services, a typical stance of catholic and conservative welfare regimes. In addition, the Argentinean case is positioned in a Latin American variant of gendered welfare regime. This is characterized by a high degree of social fragmentation and inequality in the distribution of resources, which contributes to the limitations of social rights.

Due to the context of an unstable democracy and weak civil and political rights, reproductive rights in Argentina were limited by a very restrictive law that only permitted

therapeutic abortion on eugenic and compassionate grounds. Argentina regulated therapeutic abortion in 1922, as did the advanced democracies around the world at the time. In the advanced democracies, however, "...reform preceded any significant participation by women's movement or other popular political organizations. As a form of medical care, access to legal abortion depended on the attitudes of individual doctors" (Shaver 1994, 75).

Several factors are critical with regard to the persistence of conservative gender regimes and weak reproductive rights. A key aspect is the presence of the powerful Catholic Church, which is very active in Latin America, and continually engages in aggressive campaigns against the legalization of abortion and the use of modern contraception (Htun 2003; Blofield 2006; Hagopian 2006). These perspectives have been too focused on domestic politics and policies, however, and have overlooked the relevance of international factors such as the transnationalization of reproductive rights. In addition, they are so concerned about the role of the conservative pro-life movement and vetoing any attempts to liberalize abortion, that they have neglected the relevance of women's agency in advocating reform, not only on the national and sub-national scales but at the transnational level as well.

A second factor that might help explain the persistence of these conservative policies is elite concerns with demographic policies. Analysis of the Argentinean case suggests that, due to the persistent pro-natalist tradition in the predominantly conservative welfare regime of Latin America, women's reproductive rights have historically been ignored and, in many cases, prohibited, including the provision of family-planning services. As is further developed in chapter two, pro-natalism in Argentina was present

throughout the twentieth century. This characteristic of the welfare regime is highly resistant to change, even in a context of increasing poverty, inequality and political-institutional instability.

A third explanation of conservative persistence could relate to the power of the 'ideal' of the traditional family form and the role of women as the main provider of family wellbeing, even when the traditional male breadwinner role no longer exists in practical terms. Further, as the Argentinean experience reveals, in some cases women's reproductive capacity has long been central to achieving political goals of modernization and economic development. Despite changes in the international paradigm of population policies, pro-natalist and maternalist policy legacies in Argentina make it difficult to reform these ideas.

And fourth, the exclusionary character of the welfare regime, in particular the fragmentation of the health system, restricts women's access to contraception and family planning services. This situation works as a powerful system of stratification, reinforcing the gender and class inequality of the welfare mix. Latin American inequality is more pronounced than that of advanced political economies such as Europe, where family planning services have been widely available since 1960's, mainly due to universal public health care. Since the 1990's, however, poverty and increasing inequality in Latin America have, somewhat paradoxically, fostered policy change; the changes in the domestic situation leading to the development of an international discourse of reproductive rights. In many cases, this renewed discourse has linked the goals of international organizations like the World Bank, and it is a key component of the poverty reduction strategy. This has been accompanied by the transnationalization of women's

rights, and the emergence of the concept of reproductive rights as a comprehensive reform that goes beyond the narrow perspective of previous women's struggles with abortion politics. Indeed, academic research conducted by feminist scholars has tended to focus on 'abortion', and women's struggles to legalize it. In countries like Argentina and others in Latin America, the topic is broader, including access to contraception and maternal health services (Rousseau 2007).

In Argentina, several institutional reforms, in particular the introduction of the quota system, facilitated the introduction of new actors and ideas into the public agenda. This provided the necessary context and opportunities for women's entry into political representative institutions. While women contributed to changing institutions, they were also better able to articulate common discourses pertaining to certain issues, such as reproduction. Discourse became critical to articulating ideas and promoting policy change, as the Argentinean case will demonstrate. Moreover, the scope of the political opportunity structure was extended beyond the national political arena. In the case of gender equality, and reproductive rights in particular, women's advocacy was developed at different scales. The Latin American women's movement, where Argentinean political advocates found a venue for their claims, has been central to the articulation of common discourses.

A Multiscalar Perspective on Policy and Regime Change

This thesis argues that despite their important contributions to the literature of policy change, historical-institutional approaches tend to focus almost exclusively on national politics, neglecting other scales of political action. This can cause problems when

analyzing the changing nature of gender regimes today, due to the increasing global definition and subsequent diffusion of social policy ideas, especially for countries like Argentina that are more vulnerable to exogenous pressures to reform. This rescaling of the gender regime resulted from new ideas developed at the global level that had an impact on the regional (Latin America) and national gender regimes. In addition, new opportunity structures emerged at different scales, due to democratization and the increase of women's political representation.

The thesis employs a multiscalar approach to understanding policy change. Public policy change is thus understood in a multiscalar world, whereby the politics of scale plays a central role in its formation.. This is reflected in the increased importance of international, regional, national and sub-national scales of political action (Mahon 2006). The politics of scale suggest that rather than focusing on only one scale (e.g. national), we should examine the links between different scales that collectively contribute to redefining reproductive policies, and ultimately to challenging Argentina's conservative gender regime. The concept of 'scale', as it has been developed in the critical geography literature, is employed here to refer to the different, hierarchical levels of physical 'territory' where policy formation could take place. It implies that all scales are relational, and what happens at one scale cannot be understood in isolation from others (Miller 2007, 3). The formation of social policy must be observed in a multi-scalar world that is, "...in a context in which national states still matter but international (and sub-national) sources of new policy ideas have assumed increased importance" (Mahon 2005). In some areas path-shifting innovations are observed, which can foster continuities and discontinuities in social regimes. In this thesis, the relevance of adopting a multiscalar

approach is highlighted to ensure understanding of how ‘needs’ are politically interpreted and shaped by different levels of governance. Thus, rather than focusing only on the national scale, the increasing importance of the transnational flow of policy ideas is also considered.

As suggested earlier, the welfare regimes of Latin America and Argentina in particular, have historically been vulnerable to international trends and influence, and globalization has exacerbated this. Economic liberalization is another result of this international exposure. In addition, political globalization favored the development of new scales of democratic activity, challenging the national state from above and below. New scales of public policy formation and political activism go beyond the national arena, and transnational, international and sub-national scales have become significant.

The developments of transnational (global) and sub-national (city) scales have challenged the national gender regime in two distinct ways. First, international discourses contributed to frame reproductive rights in a new manner, through international conferences and global women’s activism, and this provided Argentine women new frames for their battle for reproductive rights. Secondly, the increasing importance of global cities, and the democratization of Buenos Aires city, provided a new opportunity to claim women’s rights at the sub-national scale. Discourses developed here were also influential in subsequent national debates.

The new global gender regime, which emerged from the UN and the international debates on reproductive rights, had important significance for Latin America. The Latin American scale constituted the broader context of Argentinean women’s movement advocacy, and the feminist policies that have grown with the democratization of the

1980's. The impact of the Latin American common gender equality agenda, however, varies between countries. It follows that one scale (the international or the national) cannot effectively explain welfare and gender regime change. The focus here goes beyond the national scale, by employing a multiscale approach in which the role of international agencies in disseminating a gender perspective is highlighted.

Of particular interest in this thesis is the Cairo Conference of 1994, where a new concept of reproductive rights was introduced in the international arena. The Cairo debate had two important ramifications for Argentinean domestic politics. First, while the Argentine state joined the conservative opposition led by the Holy See, and contributed to the debate to oppose reproductive rights, the women's movement was empowered by the debates and strategies developed at the global level. UN member states are not required to adopt new policies, which result from developments of the UN system; it is not a supranational system like the European Union, with its legal empowerment to influence gender policies (MacRae 2006). Regardless, it can instill a sense of 'moral' obligation for state representatives in the international arena and—more important for this thesis—provide new tools for women activists to frame political discourses, and advance new ideas about reproductive rights and health within domestic borders.

The second important aspect of the Cairo Conference was related to the sub-national scale. Democratization did not happen only on the national scale. The literature of global cities suggests that urban centres are important to the mobilization of interests, and the building of advocacy alliances between different social and political actors. Discussion and interaction between different scales—from global to local or local to global—largely takes place in and through urban sites. Holston suggests that in the

current globalization environment, "...cities—metropolitan regions especially—are the crucial sites for the impact of global democracy and the strategic arenas for the development of new citizenships" (2001, 326). For Holston, globalization is not only an economic phenomenon, but a political one as well. Indeed, new forms of urban citizenship have emerged. Where the city is the primary political community urban residence becomes a criterion for membership, and the basis for political mobilization and right-claims arising from the urban experience.

There is other important literature that asserts that democratization can take place at sub-national scales. Gibson notes two distinct patterns of democratization within the nation-state: substantive democratization and territorial democratization. Substantive democratization is, "...the granting of rights not previously available in the country—either a new concept of rights or the extension of existing rights to new categories of people regardless of where they live" (2006, 6). Suffrage is an example of this. In contrast, territorial democratization is, "...the expansion of clusters of rights across a country's political jurisdictions. It involves the granting of rights already available to inhabitants of one part of a country to inhabitants of other parts of the country" (Gibson 2008, 6). An example of territorial democratization is Buenos Aires city in 1996. After years of democratic instability and suppression of civil liberties, the Buenos Aires city government was declared an autonomous government in the renewed Constitution of 1994, and citizens were granted the right to vote and elect the Mayor and a new legislature. Subsequently, the Buenos Aires city government implemented a new Constitution in 1996, which explicitly recognized women's rights as human rights, including reproductive rights, a point which will be developed in chapter three. Within

this new political opportunity structure, the legislative arena in the Buenos Aires city scale—also empowered by the historical legacies—became a new venue for women’s political activism and the struggle for reproductive rights, which had ramifications in national debates. Indeed, the main political alliance against Carlos Menem was developed in the city, and took office as the national executive in 1999 (*Alianza UCR-Frepaso*), thereby influencing the path of policy change as well.

Political Opportunity Structures and the Politics of Scale

The politics of scale highlight the importance of examining the different interdependent scales that affect policy and regime change. For the new politics of reproductive rights, these scales constitute new opportunities for the women’s movement to frame and advance women’s rights.

This thesis argues that, while actors are able to modify institutions under certain circumstances, policy change quite often affects institutions by promoting broader changes as well, thereby challenging the regime in which they are embedded; such as the introduction of institutional innovations that alter political representation in ways that promote change in reproductive policy. For example, the adoption of a women’s quota might create opportunities for the introduction of new policies, such as a family-planning policy. Thus, the adoption of a new policy can promote continuous change through the adoption of subsequent policies (e.g. tubal ligation, emergency contraception, etc.). Moreover, this could require expanding the debate to bring in new ideas, altering the range of options available for policy change and challenging the broader gender regime.

In understanding institutional and policy change, political discourses and actors' ability to frame these discourses is critical.

A weaker institutional scenario also helps provide opportunities for the introduction of new ideas, including those of international actors who attempt to influence domestic politics and policies. In particular, organizations like the UN, and international conventions such as the Convention on all Forms of Discrimination Against Women (1979) (CEDAW), are involved in providing direction for social policy formulation. The institutionalization of a gender-oriented social agenda in Argentina is related to increasing women's networking at different scales, as well as strengthening their link with international organizations that promote gender equality across different public policy areas. Transnational and sub-national scales have become increasingly important for policy formulation.

As this thesis contends, pressures to reform the Argentine gender regime came about in two important ways. First, from the international and transnational scales, where formation of the global gender regime and transnationalized women's organizing contributed to redefining the concept of reproductive rights. These new ideas were not automatically translated into national politics, however. The second way pressure to reform the gender regime came about was from the sub-national scale, which became an important democratic arena for advancing a gender equality agenda, especially at a time when the national state had embarked upon campaigning to stop international pressures for reform, providing an example of what Tilly and Tarrow have defined as *downward scale shift*. It is, "...the coordination of collective action at a more local level than its initiation" (2007, 94). Thus, together with changes in the international agenda, other

scales of political activism opened up to address women's demands after democratization. More importantly, the city scale was identified as a privileged environment for the introduction of these new policy ideas, as will be discussed in chapter four. The Argentinean case is a good example of the relevance of the sub-national scale as an effective arena in the struggle for rights, and the city of Buenos Aires is a particularly important scale of action. Reproductive policies in Buenos Aires city are a good example of both a place for the formation of 'shared understandings' among women, and a venue for the battle for reproductive rights.

The relevance of Buenos Aires city as a sub-national scale is also related to Argentinean cultural legacies. The city's importance as the political and cultural centre of the country lends the claims of social actors more significance than merely the limited distinction of the metropolis itself. Debates in Buenos Aires are of national importance and, as detailed in chapter five, the metropolitan debates were recognized nationally via the National Congress. In addition, although Buenos Aires city does provide better reproductive health indicators than elsewhere in the country, as noted in the Introduction, the level of political mobilization is also higher than in the rest of the country, providing a political environment where women's claims could be nationalized. This was considered a positive factor during the territorial democratization of Buenos Aires city in 1996.

Despite its lack of political autonomy, Buenos Aires city played a central role in decision-making in the 'formal' federalist regime, a regime in which the federal organization of the country is explicit in the Constitution. Yet in practice, the system is highly unbalanced in terms of the power of the metropolitan areas (urban and large districts) versus the peripheral areas (small towns and the interior provinces). This is

related to the historical, political, economic and cultural centrality of Buenos Aires city, and the *Pampas*⁷ region. The political centrality of the city has its roots in the construction of modern Argentina and its integration into the world capitalist economy. Metropolitan/peripheral federalism is also the result of ongoing periods of instability and authoritarianism, explained in the previous section of this chapter.

After 70 years of civil wars and unrest in a vast unpopulated territory, Buenos Aires city became the central power around 1880, during the time of nation-state formation. “The city, with its ports, customs revenues, administrative infrastructure, cultural heritage, and economic wealth, was made a federal district, controlled by the national government and officially declared the patrimony of the Argentine nation” (Gibson and Falletti 2004, 238). The centralization of the national government in Buenos Aires city facilitated Argentina’s integration into the world economy, through the control of customs and revenues, the ability to impose tariffs on other provinces, and the construction of a national state. Since then—until 1996 when an autonomous government was declared after the Constitutional reform of 1994—the President retained the power to appoint the Major (*Intendente*) of the city, although *porteño*⁸ citizens were empowered to elect a city council to manage municipal duties. Still, Buenos Aires dominance over the provinces was political, administrative and economic. Due to its location on the east coast of the country, Buenos Aires was able to control the flow of domestic and international trade, which helped guarantee an export-led model of economic development. Though the regional economy of the *Pampas* was based on agricultural products and fully oriented to

⁷ The Pampas region is the plain area in the country reach in agro-products and meat, located in the centre and east coast of the country.

⁸ *Porteño* is the name given to a resident of the port city of Buenos Aires.

the global economy, economies of the interior were primarily oriented toward domestic markets. They met the consumer needs of the large urban markets of the metropolis through local manufacturers, and by providing primary products such as wine and sugar. “While the Buenos Aires region grew wealthy under a system of free international exchange, the pockets of prosperity in the interior owed their very existence to tariff protection negotiated with metropolitan elites” (Gibson 1996, 43).

As a result of the enormous disparity in economic wellbeing between the interior and the coastal provinces, a different political and cultural fabric appeared. As Gibson pointed out, “In the interior provinces, traditionalist conservative ideologies prevailed, buttressed by the ideological and political power of the Catholic Church, which played a prominent role in politics and social life. In contrast, the Buenos Aires region was a bastion of liberalism and anticlericalism” (1996, 44). Moreover,

“Elites of the interior found their most important cultural referents in their Hispanic roots, Buenos Aires looked to non-Iberian Europe. The nation’s capital was lavishly built by the exuberant Generation of 1880 as a replica of Paris. They celebrated and promoted the massive flow of European immigrants as part of a ‘civilizing’ campaign that would eradicate the vestiges of traditionalism and *barbarie* entrenched in the country’s remoter regions” (Gibson 1996, 44)

In summary, the emergence of Buenos Aires city as a key political arena is related to three important events. First, the emergence of global urban cities as important sites for the flow of ideas and policy frames, Buenos Aires being a good example of this. Second, due to democratization the city gained political autonomy, and the implementation of the legislature in Buenos Aires city provided a renewed institutional political structure, and more opportunity to highlight the debate on women’s rights. As well, women’s rights and

reproductive rights were included in the new City Constitution, proclaimed in 1996.

Third, the historical legacy of Buenos Aires city as a venue for potential progressive and feminist ideas, and the centre point of antagonism between metropolitan and peripheral regions, explains the importance of the city in these debates, and its significant influence on national debate.

This thesis argues that, in addition to the international debates on reproductive rights and health, the city of Buenos Aires represented a critical scale of political advocacy in which to conduct the women's rights debate. These alternative scales (global and sub-national) were critical, particularly when the national scale was resistant to new international policies of reproductive rights or other innovations. The political events and discourses, which occurred at different scales, notably the national and sub-national, are the focus of this thesis. This is further developed in chapter five.

Women's Advocacy at Different Scales

It is argued that converging international and regional gender regimes had an impact on the Argentinean case. Thus, it is important to study the interaction between actors and institutions in the international, national and sub-national (city) scales. This thesis explores the linkages between the 'transnational' and other scales of women's movement activity.

As several researchers have argued, recent women's struggles have expanded beyond national borders. The Argentinean women's movement has also experienced this, establishing links with international counterparts. Therefore, the formulation of a gender agenda in Argentina is related to different opportunity structures, and the use that

Argentinean women have made of the new institutional arrangements. Examining the interconnectedness of these different scales of action, this thesis focuses on the attempts to build gender regimes in the international and regional (Latin America) arenas, and the resulting choices made by Argentinean women's groups. Moreover, as analysis of the Argentine case suggests, in many ways the national scale was problematic for the developing global women's movement with respect to the introduction of gender equality goals. This meant women's groups had an incentive to look to other scales, such as at the international or the sub-national, where political advocacy was more effective in spreading women's discourses.

Within the literature of the politics of scale, the concept of 'jumping scales' is useful to account for transnational women's strategies. As Miller points out, the concept of 'jumping scale' or 'scale shifting' is, "...now widely recognized as one of a palette of strategies social and political groups frequently employ in contentious politics" (2007, 5). Groups might decide to change scales (move up or down) in an attempt to find more favorable political conditions. In the process of advancing a gender equality agenda, a global gender regime has emerged, providing discourses, strategies and sites of activism that have become increasingly significant for Argentinean women's struggles for reproductive rights. While national states participate through the UN system and contribute to the formation of global norms, social groups such as the women's movement are transnationalized, and are increasingly, "...organized on a nested territorial model" (Miller 2007, 6).

For an example of 'jumping scales', the thesis explores the strategic options of the most relevant women's groups in Argentina that used the emergent global gender regime

to advance reproductive rights within domestic borders. Specifically, some women's groups have submitted reports to the CEDAW Committee to expose the true status of Argentine women within domestic borders. This is an example of what Tilly and Tarrow (2007) call *upward scale shift*, which, "...involves coordination of collective action at a higher level (whether regional, national, or even international) than its initiation" (95). These international struggles are presented in chapter four.

One important aspect of transnational women's organizing is discursive politics. "In this process scales are linked up: local problems are shown to have global cause, and needing to be (also) tackled at the supranational or even global scale" (Masson 2009). While the material basis of the new reproductive policies in Argentina is related to the high maternal mortality rate caused by unsafe abortions, the lack of women's access to health care is not enough to understand the policy change. Both the new international framework on women's rights and the emerging health problems in Argentina as a result of structural adjustment policies have contributed to this new environment, and are also elements of the political debate. Still, the women's movement, as well as those of other relevant actors, has played an important role in the battle to expand and enhance women's rights, and helped to contextualize the political discourse. These actors also develop strategic choices to frame their demands within an acceptable framework. Moreover, women's advocacy was shaped at different scales.

Although Argentina is characterized by weak feminist ideology and the predominance of political maternalism, Buenos Aires city has been a significant site for the origins of feminist ideas since the second half of nineteenth century. With democratization (1983 to 1996) Buenos Aires city became an important venue for the

flow of feminist ideas, especially those related to biological reproduction (birth control), conforming to a political opportunity structure in order to alter pre-existing social policies on reproduction. Again, the historical legacies of feminism in the Buenos Aires city are critical, and will be discussed in chapter two.

Since democratization, the Argentinean women's movement has played an important role in promoting institutional reforms intended to bring more women into representative institutions, and thereby help promote women's rights on both the national and the sub-national (Buenos Aires city) scales; this topic is developed in chapter three. Thus, the institutionalization of a gender-oriented social agenda in Argentina is partly related to the inclusion of feminists in governing bodies that are linked to international organizations that promote gender equality across different public policy areas. This phenomenon has been called 'state feminism', which refers to the inclusion of femocrats and/or the adoption of gender equality policies in different government bodies⁹.

While not without value, this concept has some limitations. The concept of state feminism is used to refer to a variety of situations: when feminist politicians are included in different bureaucratic structures; when certain agencies address feminist goals in public policies; or when women's policy machinery is created inside the state to promote gender equality. Yet success in introducing gender mainstreaming into national debates varies. In addition, analysis of women's role within the state does not fully explain how current women activists frame their demands. In her study of the women's movement in Germany, Heather MacRae noticed the limitations of the approach. She argued that, "...although these official state channels are important in formulating and implementing

⁹ For a complete analysis of state feminism see McBride Stetson, Dorothy and Amy Mazur (1995)

women's policy...focusing only on these institutions and 'state feminism' pursued therein overlooks other forms of institutionalized feminist activity" (2005, 53).

Thus, this thesis does not employ the concept of state feminism, because, "...the concept has been used in such widely different contexts, periods and political strategies so as to now be misleading" (Threlfall 1998, 70). State feminism restricts the analysis of the women's movement to the core of the bureaucratic state, and does not consider other forms of women's participation in policy-making. This is very important to the analysis of the Argentinean case. Though Argentina created the National Women's Council—the women's policy machinery accountable to CEDAW—in 1989, its institutional and political weakness limited the opportunities to advance a gender equality agenda after democratization; this is further developed below. Instead, women activists pursued other avenues of political activism, particularly in legislative bodies. A new opportunity structure emerged with democratization in 1983 and the constitutional reforms of 1994. Several institutional changes provided new opportunities to raise women's claims, one of the most important being the implementation of the legal quota in 1991. The quota law opened new channels of political representation, critical to advancing reproductive rights in the legislative arena.

Rather than focusing on 'state feminism' this thesis employs the idea of the 'triangle of empowerment', derived from the women's movement, feminist politicians and feminist civil servants. "These set of actors interact in a 'triangle of empowerment', which articulates women's demands, translates them into policy issues and struggles to widen support for their agenda" (Vargas and Wieringa 1998, 3) The idea of the 'triangle of empowerment' does not mean that the actors have fixed positions. Instead, their

interests and ideas might diverge and their positions change according to different policy issues. The Argentinean women's movement has been fragmented since the era of Peronism. Differences between middle and upper class intellectual urban feminists, and those women from the 'popular sector', who identified with Eva Perón, remained until democratization. Yet, as argued in this thesis, the women's movement was united on certain issues, such as denouncing the gender effects of SAP's, and the pursuit of reproductive rights. Changes in the international context favoured this unity. International factors were contextual determinants in recent transformations and struggles, such as the emergence of the global gender equality regime and the transnationalization of the women's movement. Changes in the international agenda do not, however, automatically translate into domestic policies. Still, the historical legacies inherited from the previous national welfare regime could have a path-shifting effect on policy and regime change. This thesis is concerned with explaining these developments.

Ideas, Discourses, and the Politics of Scale

In studying the reasons and modes of policy change it is important to examine the ideas that motivate reform. These are known as 'normative frameworks'. With the transnational diffusion of new social policy ideas, women's advocacy is a central aspect of regime change. In this regard, social actors are vehicles for change. The role of ideas in explaining policy change is important; for example, when social actors/movements and policy makers frame policies in order to make them politically effective (Fischer 2003). Frames are understood as, "...normative and sometimes cognitive ideas that are located in the foreground of policy debates" (Campbell 2002, 26). Political elites strategically

craft frames, and use them to legitimize their policies to the public and each other (Campbell 2002, 27).

To account for policy change it is critical to understand why some ideas become prominent at a particular time. As Lieberman suggests, “The important point is not only where ideas come from or how they cohere or collide but also how they come to be prominent, important, and powerful, even determinative in shaping political behavior and defining political rationality” (Lieberman 2002, 700). Thus, the purpose of an ideational/institutional framework is to understand how societies adopt new ideas over old ones, and it can complement previous historical institutional approaches, which do not incorporate ideas to understand policy change (Steinmo 2001; Streeck and Thelen 2005). This process of exchange occurs at the intersection of ideas and institutions. In this analysis, it is relevant to identify, “...moments of prospective choice and opportunity when new directions seem genuinely available and tracing the choices actors make under these circumstances” (Lieberman 2002, 704). As demonstrated in this thesis, the 2001 financial crisis, and its consequence of impoverishment, created opportunities to frame women’s demands under an acceptable framework. Moreover, in the context of the so-called poverty reduction strategies, the reproductive health of women, particularly poor women, became a legitimate case to advance reproductive rights.

It is important here to see the framing process as a strategic and deliberate activity aimed at generating public support for specific policy ideas (Béland 2005, 11). In this regard, policy discourse can be understood as communicative interaction among political actors that results in the translation of problems into policy issues (Fisher 2003, 3). The strategic use of policy discourse as frames is a key factor for policy change, as, “...the

ability to frame a policy programme in a politically—and culturally—acceptable and desirable manner... can help to explain why some policy alternatives triumph over others and why elected officials decide to ‘do something’ in the first place” (Béland 2005, 12). For example, studies of German family policy transformations show how declining birthrates was a critical demographic factor that instigated a push for reform in a conservative gender regime. “Fiscal and economic as well as demographic factors are not challenges per se, but become so in a process of collective interpretation and are framed quite differently in diverse national contexts” (Henninger, et. al. 2008, 306). It is argued that poverty and high maternal mortality became important indicators to highlight women’s needs. They were relevant to framing collective understanding of the need to advance reproductive health and rights, and altered the conservative nature of the gender regime.

While actors can frame new ideas in specific institutional settings, weak institutional contexts provide avenues for policy innovation and the introduction of new ideas. Unlike highly stable institutional environments, unstable institutional scenarios are more sensitive to external shocks, and may be more receptive to fast policy transfer (Peck 2002). This is not to imply that international policy diffusion is an uncritical adoption of new ideas. Instead, domestic historical legacies shape policy discourses, resulting in path-shifting changes where drastic change is rare, at least in well-established social policies and large constituencies have emerged (Béland 2005, 13).

Discursive politics has been central to feminist politics. Women have made the invisible visible by denouncing the false dichotomy between the public and private spheres, thus transforming the communicative action that is critical for a feminist

understanding of political and social life. As Phillips suggests, "...the focus on discourse illustrates that subjects are situated in discursive contexts and that commonly used notions are often contestable concepts. Policy debates thus can best be understood through investigating the specific contexts, discourses, and experiences of actors in these contested narratives" (1996, 258).

Jenson's concept of universe of political discourse is crucial here, because it highlights the discursive content in which women's movements frame their arguments. The concept comprises beliefs about the, "...ways politics should be conducted, the boundaries of political discussion, and the kinds of conflicts resolvable through political processes" (Jenson 1987, 65). In order to convey the relationship between structure and agency, Jenson assumes that political actions are shaped, and can shape (alter) structural contexts. Jenson also defines the universe of political discourse as the universe of socially constructed meaning resulting from political struggle. Within this universe, "...the parameters of political action are established by the process of limiting the set of actors, the status of legitimate participants; the range of issues considered within the realm of political debate; the policy alternatives considered feasible for implementation; and, finally, the alliance strategies available for achieving change" (Jenson 1986, 26). Discourse is important because Jenson sees the universe of political discourse as solely national. This thesis also provides a multiscale approach, however, that considers the complex interactions of the universe of political discourse at different interconnected scales.

As a result of the global movement to frame women's rights and human rights, feminist discourses and strategies are developed at different scales, comprised of sites of

contestation and resistance. These contribute to promoting policy change in national and sub-national scales. Thus, this thesis takes a multiscale perspective in order to understand policy change.

Conclusions

This chapter developed the concept of gender regime in order to position Argentina in a broader comparative framework, and to interpret policy and gender regime change. It argues that the gender regime encompasses, but is broader than, the welfare regime. Social and biological reproduction and women's political roles are key aspects of the gender regime. While this thesis builds on gendered welfare regime literature, it emphasizes the need to consider biological reproduction a key component of gender regimes. This is particularly important in the Latin American context, where reproductive rights have historically been neglected, and women's reproductive role constitutes an important legacy of the old conservative gender regime. While concerns about abortion declined in advanced welfare political economies such as North America and Europe as the legalization became a reality, it is still an unsolved issue in many other countries. This is especially true of Latin America and Argentina, where persistent pro-natalist policies entrenched in powerful maternalist policies are key components of the construction of national welfare regimes, and conditions limit the ability of the health sector to deliver services to those most in need.

The thesis engages critically with historical-institutional literature to deal with welfare and gender regime transformations, and it also addresses two significant variations. First, it is suggested that the instability of the political and state institutions

has strongly contributed to the deficiencies of the national welfare state in Argentina. Institutional instability—a feature of most democracies outside North America and Western Europe—has important consequences that can enhance understanding of policy and regime change. Countries like Argentina face a high degree of institutional and public policy volatility, and this can result in more opportunity for the introduction of policy innovation. Secondly, democratic transitions and the legacy of authoritarianism have had consequences for social citizenship, limiting the scope of welfare services provided. The features of fragmentation and gender dualism are consequences of Argentina's welfare regime.

How can change in Argentina's reproductive policies be understood? What were the conditions that made changes in the Argentina's reproductive policies possible? Why have these changes occurred? In unstable contexts path-dependency becomes difficult to sustain. In spite of persistent social policy, even in the case of maternalist policies, actors' mobilization can alter the course of social policies when influenced by external pressures, such as a major political and/or economic crisis. In Argentina, the consequences of the 2001 financial crisis and the adoption of a new poverty reduction strategy have created opportunities for mobilization related to reproductive health and rights.

If this new socio-economic scenario provided opportunities for the introduction of ideas, then there is an important place for agency. Women's transnational organizing and the emergence of global gender equality discourses are analyzed in a multiscalar world, where reproductive policy is framed. Global, regional and sub-national scales are important sites for coalition building and reform proposals, but they are also venues for contestation, where pro-change vs. pro-status quo groups compete to affect social policy.

Ideas and discourses then become central to understanding reform. In addition, the universe of political discourse frames discourses, and determines what ideas and solutions form the range of available policy options and are, as a result, considered acceptable.

Transnationalized actors are important agents for the dissemination of ideas for reform and innovation. In particular, women's transnational activism is central to the new politics of biological reproduction. This does not imply, however, that change results only from international factors; sub-national scales are also important sites of contestation. The construction of ideas and discourses, which constitute political opportunities to achieve policy reform is achieved in national and sub-national scales. The process of scale shifting, upward or downward, is thus a key aspect of the politics of scale developed in this thesis.

Chapter Two

From a Domestic Gender Regime to a Public Gender Regime: Argentina 1880-1983

*To govern is to populate (Juan Bautista Alberdi, 1853)*¹⁰

Introduction

Successive Argentinean governments, both democratic and non-democratic, have attempted to preserve and reproduce the traditional family model by regulating women's work, and by protecting the family, working mothers and their children. Argentinean legislation has followed the path of strengthening the binomial mother-child relationship, and protecting women as mothers, workers and the 'helpless', highlighting the dual gendered character of the welfare regime in Argentina. While men were socially entitled as citizen-workers, women were socially entitled as citizen-mothers and working-mothers. This chapter focuses on the change from a domestic to a public gender regime in Argentina, a change shaped by the origins and development of maternity benefits in the context of a persistent pro-natalist policy, elements, which contributed to the consolidation of the old conservative-familial welfare regime.

In analyzing the origins of social security (maternity) benefits in Argentina, primary attention is given to the evolution of maternity leaves, childcare and the special models to regulate women's work. Also considered are the models designed to equalize women and men's opportunities in the labour market, which appeared in late 1950's. Due

¹⁰ Juan B. Alberdi was a founding father and writer of the Argentinean Constitution, originally approved in 1853.

to the historical legacies of pro-natalist and maternalist policies in Argentina, this thesis focuses on the emergence of feminism, and the ramifications of the democratization process that began in 1983. In addition to women's welfare, three other components of the gender regime are explored in this chapter: women's inclusion in the labour market and the development of maternalist protective legislation; women's political representation; and the ideologies that shaped women's political participation.

The chapter is divided into three historical periods, which roughly matches the timing of changes in the conservative gender regime, including the movement from a domestic to a public gender regime. These changes are also reflected in variations in the universe of political discourse, a concept that is used systematically in this chapter. The first period (1880-1945) was characterized by national state building in the context of an export-oriented model, and development of the early pro-natalist and maternalist policies. The second period (1945-1973) was characterized by a state-centered strategy of development and the emergence of the old welfare state. It includes the Peronism and Post-Peronism eras, as well as the bureaucratic-authoritarian state concurrent with the modernization of gender relations. The third period (1973-1983) lasted until the end of the military junta that ruled the country between 1976 and 1983. It reflected the welfare state crisis, including the third government of Juan Perón. The subsequent democratization process and the adoption of SAP's had an important impact on women's status and gender roles, aspects that will be developed in chapters three and four. At the end of the chapter a chart summarizes the historical transformations of the Argentine gender regime (See Chart 1).

‘Producing’ Babies, ‘Creating’ Mothers: Gender and Reproduction in Modern Argentina (1880-1945)

Population has been a central ‘social issue’ in Argentina since the formation of the national state, *circa 1880*. As an exporter of agro products (meat and cereals), Argentina was included in the international capitalist economy, a development that spun off some of the early industrialization and urbanization from the agro-export model. The new model of economic development increased the demand for workers, as Argentina was a large and sparsely populated country. At the same time, population growth was very slow, and an early decline in the fertility rate created the material basis to justify the development of pro-natalist policies. Indeed, the declining birth rate (*Denatalización*) was perceived as “dramatic” by the liberal political elites of the time. In their view, it had a negative effect on the potential for Argentina to become a fully modern and competitive country. In addition to declining fertility, high levels of infant mortality were a major social concern, an aspect of the situation which will be developed later in this chapter (see Table 3: Total fertility rate).

Depopulation was related to the scarcity of native peoples and the premature decline of the fertility rate. The Argentinean population grew very quickly between 1880 and 1930, but this was due to massive European immigration, not an increase in births (see Table 3: Evolution of Argentine population). The Chapter on Individual Rights and Guarantees, which was included in the 1853 Federal Constitution, encouraged European immigration, and it remains in effect today. Article 25 of the Chapter states, “The Federal Government will promote European immigration; and it will not restrict, limit or tax any

entry in the Argentine territory of foreigners who want to work the land, improve industries and introduce and teach arts and sciences”.

Susana Torrado has argued that the reproductive and demographic behavior of Argentinean society was unique, given the speed of the process of demographic transition and the nature of the actors involved. The demographic transition was completed very early (between 1880 and 1930), immediately after the decline of mortality, as families sought to reduce their size by self-regulating fertility. In fact, in less than 50 years (1880-1930), the average number of children born to a female resident of Buenos Aires city dropped from almost six to less than two.¹¹ Since modern contraception techniques were still unavailable at the time, the practice of fertility regulation in the familial context suggests that men were involved in the process of contraception. In addition, at the beginning of twentieth century abortion was widely used as contraception, even though it was illegal.¹² Paradoxically, Argentina was a pioneer in Latin America in regulating abortion in its penal code, basing it on eugenic and compassionate justification. This will be discussed further in chapter five; at this point it is only important to know that legal abortion was restricted.

Until the 1930's, Argentine-born people and immigrants exhibited different reproductive and demographic behavior (Torrado 1999). Secularization, associated with changes in the ‘habitat’ of the European immigrants, and the positive expectations of high

¹¹ At the beginning of XX Century Buenos Aires city had 1,232,000 people when only 54.5% were natives. Among the foreigners 22.4% were Italians, 14.2% Spanish, 2.9% French and 1.1% Russians.

¹² Of course, these practices were penalized. In particular, single women to hide the ‘dishonor’ incurred in these types of practices. Nari argued that the medical profession tried to ‘justify’ single mothers who incurred in those practices. Moral judgments could be softened.

social mobility related to the rapid economic growth both shaped a new Argentine preference for smaller families. After the 1930's, with the decline of European immigration, the 'preference' for small families was reflected in the national averages. Between 1945 and 1955 (a period of institutionalization and consolidation of the welfare state) workers and the urban middle class reproduced with the same pattern, an average of two children per couple. Torrado argues that the modernization of the reproductive behavior of Argentinean families was constructed against the predominant ideology and interests of the political elite, who associated greater economic development with an increase in population. This view was shared by everyone, including: the Catholic Church, and its ideal of the 'Christian family'; the authoritarian and military regimes, which imposed a conservative model of gender relations (exacerbated in the 1970's); and the medical profession, which played a vital role in the production of eugenic and pro-natalist policies (Torrado 1999, 259).

The development of eugenicist policies contributed greatly to ideological support for the need to fight against depopulation by preserving the quality of "race", a role ascribed to the new immigrant population. Overall, promoters of these ideas credited the immigrants with the capacity to reproduce the Argentinean population and improve the quality of the 'race'. Within this universe of political discourse, nation building was associated with the creation of a new race, but its meaning differed according to the political projects of the time. For example, some promoted the 'replacement' of the old native population with a new race, and supported the exclusion of '*exotic* races' such as Asians and the preference for 'white' immigrants, which included Spaniards, Italians and northern Europeans. Others promoted the emergence of a new 'Latin' race (the

Argentinean) through integration between the new European immigrants and the native population (*gauchos o criollos*) (Nari 2004, 34). Thus, immigration had the dual goal of quickly increasing population while ‘consolidating Europe’s civilizing influence’¹³ (Halperin Donghi 1995, 201).

Infant mortality and public health also became major social concerns, and were connected to the new labour force requirements and national security issues inherited from the decolonization period (i.e. the need to protect Argentinean territory and borders from its neighbor countries). One of the national responses to these issues was the ‘*medicalization*’ of childbearing through the development of the first maternal health care centers and public hospitals in Buenos Aires city. For example, the replacement of the old “*comadrona*” by a medical doctor and a “*partera*” (midwife) appeared to transfer childbearing responsibility from the private domain to the public sphere. In addition, the intentional ‘creation of mothers’ was a function of the medical profession, and was related to the appearance of the first expression of feminism that articulated a maternalist discourse. Marcela Nari argues that the ‘*maternalization*’ (*maternalización*) of women was constructed through a scientific discourse, which exalted women’s reproductive role.

The first women doctors, like Cecilia Grierson and Julieta Lanteri, played an important role in the scientific creation of mothers. Being European immigrants and members of the professional middle class, they were inspired by the progressive maternalists of Europe. Thus, the ‘*maternalization*’ of women was not originally an Argentinean phenomenon. Argentina had adopted the path followed by the Western

¹³ In comparison with its native population, Argentina received one of the largest continents of European immigrants ever recorded. By 1930 70% of the male labour force of Buenos Aires was foreign.

world at the end of nineteenth and beginning of twentieth century, which was associated with the changes in the capitalist economy (Nari 2004, 101). The ideal of the traditional family was ‘scientifically’ constructed by the differing roles attributed to men’s and women’s ‘natural’ attributes and capabilities. The main concept was that of, “...the loving mother and the father provider of economic wellbeing... women were mothers by instinct, men [were providers] by the law” (Nari 2004, 130).

The creation of mothers by the medical profession had an institutional counterpart in the maternal health policies developed by the state. Between 1932 and 1936, a variety of obstetrical and gynecological services were created in public hospitals of Buenos Aires city. Social services were built around two main women’s roles in the public system: hygienic visitors (*visitadoras de higiene*) and social workers (*asistentes sociales*). The hygienic visitors developed preventive medicine in hospitals, maternities and other areas against so-called ‘social diseases’ (i.e. syphilis, tuberculosis and alcoholism). The social workers were involved with the *obras sociales* (social insurance funds), and had the mission of contributing to the moral, social and economic wellbeing of the family and its members (Nari 2004, 184).

It was in this context that women were understood to be a, “...reproductive good of the Nation...their bodies belonged to the Nation and the society as a whole had the right to make decisions for them” (Nari 2004, 151). The interests of the liberal political elites in promoting population growth were partly offset by the immigrants’ desire to associate their parenthood with their economic wellbeing, which soon revealed their preference for smaller families. Socialists and anarchists were promoters of these ideas among working-class families since, to them, multiple-parenthood was considered a

degradation of the body (*degeneración*) and a cause of material deprivation; more children increased the poverty of working families and decreased the chances of class education (*educación de clase*). In this sense, socialist and anarchist political discourse encouraged contraception and conscientious motherhood (Nari 2004, 38-9).

Nonetheless, pro-natalism in Argentina was supported by a strong division of gender roles, reducing women's primary function to the social reproduction of the family. The strong male breadwinner/female caregiver family form did not mean women were completely excluded from the labour market, however, as working women were needed in order to meet the requirements of the capitalist economy. Work was also 'unavoidable' for many poor women, because they needed to supplement the male wages. This was reflected in the tension between the scientific discourse and medical efforts to enforce women's role as mothers, and the interests of the capitalist class to incorporate women in the labour force. In addition, the labour movement was concerned with protecting male wages and working-class families from capitalist efforts to lower wages by employing women. This trend was first seen in the 1920's, and more widely in the 1930's following the world financial crisis of 1929.

The Early Inclusion of Women in the labour Market

The inclusion of women in the labour market was clearly affected by the context of the traditional model of the family, and shaped by the domestic gender regime. Within this universe of political discourse, the boundaries of women's participation in the public sphere were framed by domesticity. In this regard, women's work was understood as 'exceptional' and 'occasional', accepted as an extension of their domestic care activities

and as a supplement to male income. Women workers in Argentina, however, constituted an important segment of the new capitalist system in the textile and food industries, and as domestic workers. Despite this, the male breadwinner form was still maintained in the liberal discourse of the time. From the end of nineteenth century socialists and Catholics had demanded ‘the right of workers to have a family’ and a ‘family wage’, as well as protection for working mothers. The right to the minimum wage was justified in the *Rerum Novarum* (1891), where the wage, “...was needed for the self-preservation and for the acquisition of the things needed for the life and the reproduction of the work force” (Nari 2004, 168). At the time this process was then explicitly understood in the context of the family¹⁴.

Until 1920’s women’s work was considered ‘a perversion of the female nature’ (*degeneración*) and, in the case of poor women, ‘wrong but unavoidable’ (*mal necesario*). During that period, the predominant ideas about women’s work implied that, “...it is difficult to reconcile maternity with work for married women and virginity with work for single women” (Nari 2004, 93). Yet the feminist activists of the Socialist Party validated women’s work beyond maternity. In ‘Union y Labor’ (1909-1913), a publication of the feminist activists of the Socialist Party, women’s work was described as a positive advancement, and proof of women’s independence. In the 1920’s the *Union Obrera Textil* (textile trade union) also raised demands for women’s right to work, as well as equal pay for equal work (Nari 2004, 97).

¹⁴ In theory, the minimum salary was determined under gender-neutral basis. But in practice and in the political debates the minimum salary was assimilated to the family wage gave it to the male breadwinner.

Protecting mothers and families: The origins of social benefits in modern Argentina

The origins of maternalist policies in Argentina are found in the early socialist and anarchist struggles for the 'protection' of male jobs and their families. Since its origin, the trade union movement has called for 'equal pay for equal work'. In practice, however, it was widely accepted that women's wages were only to provide additional income to the family (e.g. family savings or other 'exceptional' expenses). Women's work was generally accepted under this description, although some still thought it constituted a threat to male workers. Similarly, the protection of working mothers came to be associated with the need to protect workers' families from the capitalist interests of lowering wages and increasing productivity.

This situation was sustained in the political discourse of the first groups of socialists and anarchist workers, who invoked the need for family planning and responsible parenthood in order to adjust family wellbeing to the number of children. This challenged the predominant universe of political discourse, and went against the government's plans to combat declining fertility rates. Indeed, for the government the protection of working mothers was founded in the wider national plan of transforming Argentina into a modern country. Thus, combating population concerns and eliminating child mortality were national priorities. In her analysis of early maternalist legislation in France and the UK, Jane Jenson (1986) suggests that legislation to protect working mothers was not originally founded in the need to address gender equality in the labour market. Rather, government responses to women's work were focused mainly on the need to 'produce babies', and to increase the population by reducing infant mortality. So,

policies such as childcare in the work place and maternity leaves were initially intended to combat child mortality. The same can be argued in the Argentinean case.

What specific measures were taken in Argentina to protect maternity? Early on, maternalist policies included limits on work hours for mothers and infants, the creation of the first day-care centers in factories (*casas cuna*) and the introduction of maternal health funds and centers (the forerunners of the modern family allowances system). Although political opposition of the capitalist sector and conservative groups opposed its passage, specific legislation to protect working mothers was approved by the National Congress in 1907. Nevertheless, it still took almost 30 years of social struggle to pass the legislation, and by then (1934) maternity leaves were already established. The regulation of rest periods to allow for breast feeding in the workplace was a result of implementing daycare centers in factories. In addition, during 1930's and 1940's pro-natalism and maternalism were supported by the creation of the social security institutions of maternity, children and families within the bureaucratic apparatus of the national state. Since the origins of the welfare state, those agencies had adopted a medical view of motherhood with the need to protect poor mothers, who in many cases were single mothers.

In 1907, the first bill to protect working mothers was passed by the National Congress (Law 5291/1907) due to the initiative of the first socialist deputy ever elected to the National Congress, the Buenos Aires city deputy Alfredo Palacios. In reality, Argentinean socialists and anarchists were inspired by the social struggles in Europe, since most of them were immigrants and/or first generation Argentineans. The law attempted to regulate the work of women and children by stipulating that a working day

of eight hours, and prohibiting nocturnal work. In Buenos Aires city, the norm also included 30 days maternity leave after childbirth and rest periods to breast-feed at work (15 minutes every two hours). In 1924, a new law (11317/24) extended maternity leaves to six weeks after childbirth, and also increased the time between rest periods for breast-feeding to every three hours¹⁵. Another measure in the new law was the creation of daycare centers (*casa cuna*) in factories with more than 50 women workers. In 1934 another new law (11932/34) reduced the frequency of rest periods to only two of 30 minutes each, and a medical certificate was required to allow additional periods. In accordance with the Maternity Protection Convention 3, the International labour Organization (ILO) approved these laws on October 29, 1919, and they were considered to be the first international norm related to women's work before and after childbirth or '*on the protection of maternity*'. This reflects the relatively longstanding importance of the international scale in Argentina's gender regime.

Early trade union struggles for the family wage and the perception of women's work as an extension of, or complement to, the male breadwinner wage also shaped interest in the welfare regime, where the family constituted the base for the entitlement of social benefits. In the Argentinean welfare regime the family is the primary social unit. Prior to the modern family allowance system, the first maternity insurance funds for working mothers were created in 1934. The creation of mutual funds and maternity funds was an attempt to be different from traditional charity. In this regard, it was important to

¹⁵ During maternity leave however women did not any receive payment. Nonetheless, the employer had the obligation to keep the job for the worker after that period. In both laws the rule was the same.

differentiate them from the ‘humiliating’ character of charity, and highlight the effort that individuals themselves had made to help the fund the system¹⁶ (Nari 2004).

The new system was based on social contributions made by the worker, the employer and the state (*Ley 11.933*). Later, the government implemented the law by creating the *Cajas de Maternidad* (Maternity Insurance Fund), which managed the funds collected through social contributions. All women workers (single or married) between 15 and 45 years old were obligated to contribute to the fund, which upheld the rights of women workers to have a doctor or *partera* (midwife), and to receive a subsidy during maternity leave. Also in 1934, women workers from the public sector were included in the Fund (*Ley 12111*) but their period of maternity leave was longer (45 days before and after the childbirth). The development of legislation to protect working mothers was accompanied by the creation of the first *Dirección de Maternidad e Infancia* (National Direction of Maternity and Childhood), which had the explicit objectives of protecting mothers and reducing child mortality, and developing national campaigns to promote the fundamentals of social hygienist policies, maternal feeding and the commercialization of cow’s milk.

Progressive Maternalism and Early Women’s Struggles for the Right to Vote

In 1914 in Argentina, one-third of the population was foreign born, and about 80 percent could trace their parentage to immigrants who had arrived since 1850. European immigration played a key role in the development of political ideas from the end of nineteenth century, and it also had an impact on the origins of the feminist politics in

¹⁶ The maternity social security system has its origins in the German system while the mutuality system was originated in the French welfare state.

Argentina. In the Southern Cone (Argentina, Chile and Uruguay) those, inspired by the ideas of gender and social reform were a mix of working-class and middle-class people of European origins. Southern Cone feminism developed mostly in urban centers, and both the predominant branches of feminism (i.e. liberal and socialist) were concentrated in the cities of—in order of importance—Buenos Aires, Montevideo and Santiago. Ties between the movements of the different cities had been important since 1898 (Lavrin 1995). As Lavrin points out, “...class, access to education, and location in urban centers where communication permitted the flow of new ideas from within and from outside were central in the formation of feminism” (1995, 19).

The first wave of feminism in the Southern Cone was maternal feminism. During the first half of twentieth century, liberal and socialist urban middle-class women dominated the feminist political scene in Argentina. The emergence of Peronism, particularly the leadership of Eva Peron, dramatically changed that picture, and prompted differences between the middle and upper-class urban intellectual feminists, and the women from the ‘popular sector’ who identified with Perón (the working class and the poor). The differences remained until democratization. These developments, which are important legacies of the Argentine women’s movement, are further developed in this chapter.

One of the notable aspects of the passage from a domestic gender regime to a public gender regime was the appearance of maternalist feminism. In a well-known book on maternalism, Koven and Mitchel (1993) argue that in the nineteenth and twentieth century, women contributed to shaping a particular area of state policy: maternal and child welfare. This thesis considers the concept of maternalism, as it was developed by

those authors, to mean, "...ideologies and discourses that exalted women's capacity to mother and applied to society as a whole the values they attached to that role: care, nurturance and morality" (Koven and Mitchel 1993, 4). Maternalism was thus a central feature of the universe of political discourse where women framed their inclusion in the public sphere. In Koven and Mitchel's words, "...using political discourses and strategies that we have called 'maternalist', they transformed motherhood from primarily a women's private responsibility into public policy" (1993, 2).

As in a number of western nations, such as France and the United States, Argentinean maternalists made an important contribution to the architecture of welfare states. Mead points out that, "...by using the private 'virtues' of domesticity to legitimize women's public relationship to politics and the state, maternalists played an important role in determining how the state defined the needs of mothers and children, and in creating institutions and programs to address those needs" (Mead 2000, 121). In the case of Argentina, maternalists demanded the expansion of government responsibility, which to some extent required the redefinition of nation-state relations. The development of maternalism was so important in Argentina that, even today, part of the women's movement is identified with its original discourse, as shall be discussed.

Mead (2000) has identified two streams of maternalists (first wave feminism) in Argentina. The first was founded in the '*Sociedad de Beneficencia*' (Beneficent Society), which was the first charitable association founded by maternalist feminists. They raised a 'sentimentalist' discourse based on the need to help poor or disadvantaged women. This stream of feminism developed during the late nineteenth century, and upper-class native women who identified with the political elites contributed to it. Immigrant professional

middle-class women formed the second stream of maternalist feminists in Argentina. Inspired by the ideas of ‘national progress’, these women formed an association of women’s academics called “*Asociación Universitarias Argentinas*” (Association of Argentine University Women) to help organize their public activity. They played a central role in expanding social assistance to women and children between 1880 and 1920, “...making themselves a conduit through which state resources could flow to these groups” (Mead 2000, 138).

Progressive maternalists in Argentina contributed to the ‘maternalization’ of women, a kind of ‘scientific’ ideology that also supported pro-natalist policies. Feminists like Cecilia Grierson and Julieta Lanteri (who were also the first women doctors in Argentina) exalted women’s nature and the virtuous contribution that women make to their societies. They were inspired by a ‘progressive maternalism’, and formed the first charitable and publicly subsidized organizations to call for social services from the State, and promote the benefits of hygienism and nursing¹⁷. Like maternalists around the world, Argentinean maternalists contributed greatly to the fundamentals of pro-natalist policies (Koven and Mitchel 1993).

Women’s different attributes and capabilities were central to the universe of political discourse that shaped their entry into public life, and contributed to transformed welfare policies. That discourse also extended to their initial struggles for voting rights. The first suffragist movements actually emerged from earlier women’s participation in charitable and maternalist organizations. Women suffragettes started to organize themselves in the late nineteenth century, and they contributed greatly to promoting

¹⁷ Also, for an analysis of the role of maternalists and hygienists in early feminism in Argentina and the Southern cone see Lavrin (1995)

electoral reforms to allow women to actively participate in politics. For example, Julieta Lanteri created the first Feminist Party (a suffragist party) in Argentina. It was, however, from the 'differential' attributes of men and women that women's political participation was promoted.

The first suffragist demand originated in 1919, and subsequent bills were submitted to the National Congress to recognize women's voting rights. Some provinces were pioneers in recognizing women's right to vote in municipal elections, such as Santa Fe province (1920) and San Juan Province (1927). During the 1920's, the women suffragists expanded their organizations as socialist and liberal pioneers in advocating women's political rights. In addition, the intellectual middle and upper class women from Buenos Aires actively fostered the equalization of both women and men's political rights.

Coinciding with this period of expansion of human rights movements, a counter-movement of authoritarian tendencies emerged in Argentina. Dora Barrancos (2001) points out that the nationalistic-authoritarian trend that appeared in the 1920's led to the first military coup of 1930. This negatively affected chances to advance women's political rights, as the environment was characterized by limits imposed on the practice of democratic citizenship. In fact, the unstable political period of 1930-1945 was a hostile environment in which to advance women's citizenship. Nevertheless, 1932 was a landmark, as the suffragist movement was highly organized and came close to achieving its goal.

The suffragist movement was made up of a number of women's associations. Perhaps the most relevant was the '*Socialist National Committee Pro Women's Vote*'

(Comité Socialista Nacional Pro Sufragio Femenino),¹⁸ led by Alicia Moreau de Justo, the socialist feminist who spearheaded campaigns for women's rights and democracy throughout much of the twentieth century. On August 16, 1932 this group sent a bill to the National Congress appealing for women's right to vote. In the petition they argued that the vote was, "...the mode to express their [women's] opinions, defend their rights and to give them back their own character" (Barrancos 2001, 121). For feminists, women 'work hard like men for the wellbeing of the family and the society'. They also argued that the presence of women in varied jobs and activities was proof of their capacity to participate in the political life of the country. For the conservatives, however, women's political participation contradicted their main role as providers of wellbeing within the family. In words of the conservative deputy Francisco Uriburu,

"Including women in politics means to promote the dissolution of the family...to diminish the marital power—already challenged by the economic activity of women; to foster the weakening of marriages because it will not be attractive for a man to head a household which does not belong to him...women will sacrifice their duties and their female kindness and forget that they need to abandon themselves to the protection of their husbands...Consider women and men equal in their duties and legal rights means the suppression of the privilege of woman's weakness" (Barrancos 2001, 125).

¹⁸ The letter found antecedents in other petitions made to the National Congress by feminists and women's associations. Among them we can mention Carolina Muzzioli, Lanús, 1ro de Mayo, Mar del Plata, Fenia Chertkoff, Ateneo Femenino de Buenos Aires, Asociación Cultural Clorinda Matto de Turner, Agrupación de Mujeres de Letras y Artes, Comité Radical Tomasa Alem, Instituto Popular de Cultura Política, Asociación Pro Derechos de la Mujer. Some women who also subscribed to some of the petition were Elvira Rawson de Dellepiane, Salvadora Medina Onrubia de Botana, Maria Teresa de Basaldua and Adelia Di Carlo (Barrancos 2001).

The women's petition caused extensive parliamentary debate about women's role in Argentina's political society (Barrancos 2001). Despite the initial approval of the Deputy chamber, the Senate finally rejected the bill. Nonetheless, though it was not until the advent of Peronism that Argentinean women finally obtained voting rights, this petition constituted an important milestone in the struggle for the right to vote.

State-led Development: From Peronism to the Bureaucratic-Authoritarian State (1945-1973)

The political and economic regime, initiated in Argentina after 1930 as a consequence of the crisis of the export oriented model, was based on the increasing development of the welfare machinery, active state intervention in regulating the economy and the participation of trade unions in the policy process. The so-called 'state of compromise' was a general characteristic of the countries of the Southern Cone, but in Argentina the extension of the welfare apparatus was significant, especially with the emergence of Peronism. Drawing on Keynesian ideas, this welfare state was based upon the integration of urban masses in the political arena, and the implementation of the Import Substitution Model (ISM) to replace the former export-oriented strategy of economic development (Schamis 1991).

In demographic terms, by the 1940's Argentina had completed its fertility transition, and the economic pressures of the new industrial capitalist economy contributed to the reshaping of a pro-natalist and familial discourse.¹⁹ Indeed, despite the

¹⁹With the appearance of Peronism industrialization was at the core of the political project of economic development. The acceleration of the industrial process like in steel and other 'heavy' industries was however limited due to the structural dependency of the Argentinean economy from the income generated by the agro-export products.

efforts of the political elites, after 1930 the fertility rate declined and the government's concern with depopulation increased. With the expansion of the welfare state after 1945, internal migration and incremental immigration from European and the border countries replaced the old process of massive European immigration. Argentina, however, continued to be characterized by slow population growth. In the 1940's, national concerns with declining fertility rates were associated with the primary preoccupation with the role of women in the private sphere.

Peronist population policy was designed to promote demographic growth, and women's maternity became exalted within the politics of Peronism. Likewise, working families constituted the primary element of the national Peronism project. Their importance was institutionalized through the development of a corporatist welfare state which, at the same time, institutionalized a gendered dualism by including women in a wide system of social protection, in which they were recognized primarily as working-mothers and citizen-mothers. Thus, the appearance of Peronism on the political scene represents a landmark for women's inclusion in civic life. A maternalist and 'classist' discourse (different from that of both men and traditional feminists) constituted the main ideology of the Peronist women's movement, shaping their political preferences and affecting how they were introduced into the public sphere. The Peronist legacy caused an important division in the Argentinean women's movement that would persist through the democratization process that started in 1983.

The industrialization process, which started in the 1930's as a consequence of the import-substitution model, had already provided opportunities for women within the textile industry. In addition, from its origins the welfare state had provided opportunities

for middle-income women in public administration, as well as in the education and health sectors, a process, which expanded under Peron. During Peron's government, previous social legislation actually expanded, and the welfare state acquired its definitive features. At this time the need to protect and insure working mothers (*madre trabajadora*) was central to the broader context of workers' rights. Unlike previous periods, the social function of women beyond maternity was now explicitly recognized. Nevertheless, the predominant political discourse still recognized women workers as working-mothers. Thus, during the first two governments of Juan Perón (1945-55) protective legislation was approved as a part of the recognition of worker's rights.²⁰ Women's issues were also finalized within the bureaucracy, through the expansion of the welfare state and the creation of specialized agencies in the field of social assistance for women. Argentina adopted international norms to protect working mothers established by the ILO, in particular the new Maternity Protection Convention 103 (Revised) approved on June 4, 1952.

The new legislation implemented by Perón's government stipulated paid maternity leaves of 90 days (45 days before and after childbirth). In 1948, the government also created maternity schools (*Escuelas Maternales*) to protect helpless women (*mujer desamparada*), who were understood to be poor women, often without a breadwinner male partner. These schools attempted to strengthen the relationship between a mother and her child. These measures were considered the earliest efforts to reconcile women's work and maternity. In addition, Peron's government created specific

²⁰ The recognition of social rights (worker's rights) was included in the Constitutional reform of 1949. Military governments did not alter the recognition of social rights after Perón. Still, article 14 of the Argentinean Constitution contended social rights.

government agencies to assist women and children. Among them, the *National Direction of Social Assistance* (Dirección Nacional de Asistencia Social) was created in 1948, under the supervision of the *Secretariat of Work and Social Security* (Secretaría de Trabajo y Previsión Social). In 1954 the *Direction* was moved to the newly created *Ministry of Social Assistance and Public Health* (Ministerio de Asistencia Social y Salud Pública).

Although Argentina adopted international regulations on this matter, ideas related to the ‘natural’ role of women at home continued to predominate. For example, the Second Plan Quinquenal elaborated by Peron’s government (1953-57) addressed the need to, “...produce human capital based on a high level of material and spiritual life of the national community and the effective protection of the Argentinean family” (Novick 1993, 22). Within this universe of political discourse, women had a primary social function in the wellbeing and reproduction of the family.²¹

Maternalist Universe of Political Discourse and Women’s Political Rights

During the electoral campaign of 1946, Juan Perón had promised to give women the right to vote. In 1947 he began his first public speech to the National Congress with the announcement of this intention. Perón understood that women constituted an untapped political reserve, and thus he encouraged women’s participation through the actions of his wife, Eva. There is no doubt that Eva Perón’s activism was the key determinant in accelerating the inclusion of women in politics. With the electoral reform of 1947, women finally obtained political rights. The Peronist government was thus the first to

²¹ The execution of the Second Quinquenal Plan was interrupted by the Military coup that took place in 1955.

address the need to equalize the rights of women and men. In the Second Plan Quinquenal (1953-1957), put forward by the Peronist government, it was argued that,

“In spite the changes made by the Peronist government, inequalities still remain inherited from our oligarchic past, where women were put aside while in the National Congress they gave speeches in the name of the ‘mother’...As a proof of our oligarchic past we have parliamentary representation of the opposition which [after the first election in which women’s voted in 1952] did not bring any women into the National Congress” (Novick 1993, 22).

Certainly, the main change that Peronism brought was the inclusion of women by giving them equal political rights in the constitution, and allowing/recognizing their active participation in the ‘national community’.²² Further, within the Peronist party Eva Perón created the women’s branch, and she instituted the 33% minimum representation requirement for women in the party lists, an early precedent of the current 30% women’s quota system. For socialists and feminists however, “In the same way as Perón had removed independent labour leaders who might have threatened his position, the Peronist women’s movement under Eva’s leadership effectively dislodged the old feminist leaders and appropriated their cause” (Fisher 2000, 323). To be sure, Eva Perón replaced former charitable associations like the Beneficent Society, and institutionalized social assistance for women and the poor through her own social association, the *Fundación Eva Perón*. At the time, feminists—even socialists—refused to work with Eva and Juan Perón.

²² In the universe of political discourse of Peronism there was an emphasis on ‘collective rights’. The corporative discourse of Peronism tended to refer as the ‘national community’, which values were put over the defense of individual rights related to the liberal democratic tradition.

Clearly, the Peronist women's movement represented a break from the previous beneficent and university women's associations, which were predominantly comprised of middle and upper-class women who claimed to be autonomous from the state and social reformers. Rather, as Fisher argues, "Under Peron's 1946-55 governments with his wife Eva as spokesperson for women's affairs, the women's movement became the vehicle for the state's efforts to mobilize women for the Peronist cause" (Fisher 2000, 324).

Although Eva called on women in order to organize them, she also recognized their subordination to Perón. For her, women must bring their own nature and capacities into politics, and join men in the realization of the political project of Peronism. Within this universe of political discourse women had the main role of 'defending' the family. They were also understood to be moral agents and the main protectors of the family and, thus, their political participation was always 'differentiated' from that of men. Fisher points out, "Eva constantly praised them [women] for their special qualities of gentleness, fortitude, and self-sacrifice, and although she urged women to take an active role in public life, she defined their spiritual role in the family as their major sphere of influence" (Fisher 2000, 325).

The role attributed to women in defense of their families is reflected in Eva Peron's speech in which she expanded on their moral role in the Argentinean society. On July 17, 1951 she stated that, "...before Peronism women did not count in a material or spiritual sense and because I realized that women are a moral and spiritual reserve of the nation, I joined with all women of my country to work hard with them, not only for our own vindication, but also for that of our homes, of our children and of our husbands"

(Eva Perón's public speech 1951). In this moralizer role, Eva argued the fundamentals of women's political participation.

In 1946, the executive government had already sent a bill to the national Congress on the 'Electoral rights of women'. As part of the rationale for this political project, it argued, "...the recognition of women's political rights is an act of justice since the experience of other countries reveals that in exceptional circumstances in which life is at risk, women cooperate with their effort and with no less energies than men in the protection of their interests and in the defense of their collective rights...it is inconceivable that women would be kept aside from the defense of the same interests and rights under normal times" (Quoted in Novick 1993, 21).

Thus, in the Peronist social project the family played a central role as the primary social unit, and women became the, "...creator of the family and the individual consciousness of the citizens" (Novick 1993, 22). Fisher points out,

"Demands for equality were made in terms of protecting these differences, particularly women's reproductive role. It was precisely because of these innate qualities that women's suffrage was seen as a historical necessity. Women's public participation was seen as an extension of their domestic role into the public sphere; they would bring their special qualities to this sphere and act as the moral guardians of the political process" (Fisher 2000, 325).

Compared to countries such as Brazil and Uruguay, Argentina was a latecomer in terms of women's political rights. Yet Perón redefined the political opportunity structure, allowing women to enter political life. In addition, the universe of political discourse of maternalist Peronist women was classist, and their political participation was framed in a manner consistent with that universe. It attempted to differentiate women from men, but also (and perhaps more importantly) Peronists from previous liberal and socialist-

intellectual maternalists. The emergence of Peronism in the political scenario of Argentina is critical to understanding the ideological division of the Argentine women's movement, and the limits to forming an inter-class feminist movement. On one hand, liberal and socialist feminists felt that Peron and Eva had expropriated their cause, and excluded earlier feminists from the political credits of women's political rights. On the other hand, working-class women did not feel represented by earlier liberal and socialist feminists. Indeed, they identified more with men of their own class than with women from other classes who rejected Peronism. The classist divisions created with the appearance of Peronism shaped women's ideologies and political positions. This fragmentation is an important historical legacy of the Argentine women's movement, and had ramifications in contemporary politics, as shall be discussed in this thesis.

Post-Peronism and the Bureaucratic Authoritarian State: Modernizing Gender Relations?

The inclusion of women in the labour market persisted and deepened even after the downfall of the Perón government (1955), with the development of the bureaucratic-authoritarian state and the expansion of welfare services. In particular, the public sector provided better opportunities for women due to the flexible nature of the work, and strict application of labour rights like maternity leaves, reduced working hours and childcare facilities (although these were limited in availability). In addition, legislation enacted to protect working mothers did not have a discriminatory effect on women's work, as it did in the private sector²³ (Garcia de Fanelli 1991).

²³ Garcia de Fanelli (1991) and others pointed out that private companies tend to negatively calculate maternity payments (like maternity leaves and childcare) in the

The change from a domestic gender regime to a public gender regime is characterized by different periods of women's inclusion in the labour market. As indicated previously, between 1914 and 1947 women's participation in the labour market had mainly been through jobs related to an extension of their domestic activities. With the development of the welfare state, however, new opportunities opened up in the public sector. Nevertheless, the situation of women in the household still affected women's inclusion in the job market. For example, Wainerman (1980) and Cerrutti's (2000) econometric analysis found that marital condition affected the inclusion of Argentinean women in the labour market. Married women and women in connubial relationships exhibited a lower propensity to work than single (never married) women, divorced women and widows.²⁴ Until 1960, children and marital status had a negative effect on women's participation in the labour force (Garcia de Fanelli 1991), yet after 1960 married women and mothers were progressively incorporated. Changes in the composition of the labour force (feminization during the 1960's and 1970's) were related in part to the progressive advancement of women due to their increasing education levels and autonomy. Also, changes in the economic structure of the country had affected the labour force due to the growth of the service and financial sectors. This second trend of women's incorporation into the labour force started in 1960's with the progressive

productivity costs that could be avoided by hiring men. In addition, one of the reasons of women's segregation in the labour force is the social image of women's less productivity than men due to their family responsibilities. According to that dominant view, women would have less labour attachment than men. Cerrutti (2003) has also pointed out "...the detrimental effect of employers' practices, in particular discrimination against married women with children" (310).

²⁴ As an indication of the impact of the strong male breadwinner family form in Argentina we can cite Wainerman who argued that marital status of women had more effect than the presence of children. (Wainerman 1980)

inclusion of women from middle and high-income sectors, and the subsequent emergence of career-oriented women.

This process was mainly fostered by the state-led strategy of economic development and the institutionalization of women's issues in the national bureaucratic state. O'Donnell (1982) argued that by the 1960's the import substitution model—an economic strategy that emerged in the 1930's centered on manufactured goods—had been exhausted. Also by the 1960's, increasing conflict in the working and urban middle classes was perceived as a threat to the established political order, and was met by new forms of authoritarianism. The aim of the bureaucratic-authoritarian state, consolidated in Argentina in 1966, was to deepen the productive structure by means of growth and maintenance of private investment. It also required highly skilled officials to strengthen the national bureaucracy. This process of bureaucratization led to increasing formalization and differentiation of state structures, and the consequent modernization of the state apparatus.

The expansion of bureaucratic arrangements also resulted in the exclusion of the popular sector from the decision-making arena. This involved a twofold process: On one hand, the demobilization of popular groups was achieved through the suppression of democratic processes such as voting rights. On the other hand, a more subtle form of political demobilization was achieved through the co-opting and control/subordination of corporate interests (trade unions) from the state. The demobilization of popular groups was balanced by the creation of planning institutions oriented to the military goals of security and development (Schamis 1991). The bureaucratization process, however,

ended with the onset of the fiscal crisis of the welfare state (1970), and the expansion of an informal economy.

During the 30 years after Peron's defeat, special legislation to protect working mothers was retained despite regime and government changes. In fact, the military and democratic governments in power between 1955 and 1973 preserved and expanded the original protective legislation. In 1955, the government of the self-proclaimed *Freedom Revolution* (Revolución Libertadora) created the first *National Women's Office* (Dirección Nacional de la Mujer) in the *Ministry of Work and Social Security* (Ministerio de Trabajo y Previsión Social). Its goal was to improve the living conditions of working women. In addition, the *National Commission of Women* (Comisión Nacional de la Mujer) was created to advise the government on women's work, family wellbeing and social assistance for women. As well, under the presidency of General Aramburu, measures to protect working mothers were taken in accordance with international ILO conventions, such as specific legislation to protect working women's rights. In 1956, 'equal pay for equal work' was enacted through a decree (*Decreto-Ley 11.595/56*, which approved ILO Convention 100).²⁵

What is interesting about the period from 1955 to 1976 is that, despite the instability of the democratic regime and the ongoing change of governments, there was a continuity of the economic and social regime based on a full-employment economy, at least for the male breadwinner. Moreover, during the government of General Onganía

²⁵ In actual fact, the recognition of 'equal pay for equal work' was included in the Convention 100 of ILO adopted on June 6 of 1951 and implemented in 1953. Susana Novick (1993) however pointed out that this regulation did not seem to have an impact in the labour market because in 1973, the military government of General Lanusse approved another decree establishing equal pay for equal work.

(1966-1970), existing agencies were institutionalized with the specific goal of advising, counseling and developing social policies to protect working women, and help them be included in the labour market. This strategy lasted until 1976, and the takeover by the military junta.

Paradoxically, the technocratic style of management that these governments imposed provided opportunities for the modernization of gender relations, such as changes in the civil code and the inclusion of women in the labour market. For example, during Onganía's Government, a reform of the civil code was enacted which established the same marital property regime for wives and husbands, and regulated legal separation by mutual consent.²⁶ Indeed, while this period did not provide a favourable opportunity structure for gender issues, the creation of specialized agencies at the core of the national bureaucratic state established 'windows of opportunity' for advancing the status of women. This was a 'top down' rather than 'bottom up' strategy of policy change. Nevertheless, while Argentina adopted all the international regulations to protect women's work and equalize women's and men's rights in the workplace, the domestic translation of these norms was limited by both the consequences of democratic instability for citizenship, and the institutional legacies related to women's traditional role in society.

The worldwide secularization and modernization of gender relations also had consequences for the Argentinean public debate. Public speakers put less emphasis on the virtues of motherhood and the Argentinean family, and population issues lost their perceived centrality in economic development. For example, in this period it is difficult to

²⁶ An analysis of civil law reforms and especially divorce in Argentina is developed by Mala Htun (2003)

find explicit references to the need to combat depopulation by promoting pro-natalist policies. Moreover, abortion was regulated under Onganía's Presidency, extending the right of abortion to women whose pregnancy might endanger their life. This is developed further in chapter five as an aspect of the politics of abortion in Argentina during the twentieth century. Despite the progressive inclusion of women in the labour market and the introduction of modern contraception, ideas about the traditional family model remained dominant. Pro-natalism and maternalism were at the foundation of the Argentinean national state, and they persisted throughout the twentieth century. The perception of Argentina as a large and unpopulated country remained.

Abortion Politics in Argentina

In Argentina, abortion is permitted in cases of medical necessity and rape, including the presumed rape of mentally handicapped women. In her book of abortion politics in Argentina, Chile and Brazil, Mala Htun (2003) explained two main motivations that accompanied the regulation of Argentine abortions in the Penal Code. First, there was the need to include 'compassionate' abortion to, "...shield women from the anguish of mothering the children of men who had sexually assaulted them" (Htun 2003, 145). The second motivation was eugenics, "...to avoid the birth of physically or mentally handicapped children" (Htun 2003, 145). As noted earlier in this chapter, eugenic policies were among the pro-natalist policies of the time.²⁷ In the early decades of the twentieth century, ideas about eugenics were prevalent in the southern cone of South America.

²⁷ The commission noted in its justification for the new legislation: 'The issue is seductive and its elaboration in this report may carry us far, leading us into the domain of eugenics, whose study is held to be of transcendental importance... criminal science is concerned about the application of [eugenics] principles to more effectively combat the

The original wording of Argentina's abortion law was exactly the same as a draft bill submitted for consideration in Switzerland by several lawyers in 1916. The ambiguity of the translation into Spanish provoked arguments among Argentinean lawyers for decades, however, with some asserting that the law permitted abortion only for mentally ill women (Htun 2003). Particularly disputed was the last part of Article 86, which stated that abortion is unpunishable, "...if the pregnancy results from a rape or an assault on the chastity [*un atentado al pudor*] committed against a mentally handicapped or mentally ill woman [*mujer idiota o demente*]" (Htun 2003). Apparently, the Argentine Senate worked with the French translation of the German text of a draft bill written by several Swiss criminologists in 1916". The French version says, "...*attentat a la pudeur d'une femme idiote, alienée, inconsciente ou incapable de résistance*". The Argentine Senate translated the French writing as, "...*atentado al pudor cometido sobre una mujer idiota o demente*" (Htun 2003, 147). As Htun also notes, "Various attempts were made to clarify Article 86. Criminal Code bills submitted in 1937 by Eduardo Coll and Euzebio Gomez, and in 1942 by José Peco proposed a redraft the abortion articles to make it clear that they included any and all rapes" (Htun 2003, 147).

Definitive reform was not enacted until the military government of General Juan Carlos Onganía assumed power in 1966. The new government initiated substantial reform of the country's laws, including the revision of Article 86. A change in the article was enacted, affirming that abortion would not be punished, "...if the pregnancy results from

rise of delinquency... even if the sterilization of criminals is not accepted by science, by criminal law and by social consensus... it is indisputable that the law must permit abortion when it is practiced, with medical intervention, with the objective of perfecting the race. The problem was raised in Europe during the last war due to the rape of numerous Belgian women by drunken, uncontrollable, or criminal soldiers" (Senado de la Nación 1919, 84) Cited in (Htun 2003, 146)

a rape for which a criminal suit has been initiated. If the victim of the rape is a minor or a mentally handicapped or mentally ill woman [*mujer idiota o demente*], the consent of her legal representative is required” (Ley 17.567 of 1967). Describing the motives behind the revision, the committee declared, “This was one of the provisions of the Code that gave rise to the most disparate interpretations, above all for including the phrase ‘*o de un atentado al pudor sobre una mujer idiota o demente*’. We wish to make it perfectly clear that abortion is unpunishable when the pregnancy results from rape and that it is performed under the conditions specified by the law”. Htun argues that the, “Onganía reform made the law stricter by requiring that a criminal suit be initiated for the abortion to be legal. On the other hand, it is indisputable that the reform clarified, in the liberal direction, the circumstances under which abortion would go unpunished” (Htun 2003, 148).

Throughout the 1960’s, ‘70’s and ‘80’s the abortion article was altered to reflect the various changes of political regimes in power in Argentina. Htun (2003) argues that, “Ironically, while military governments promoted a more ‘liberal’ version of the abortion law, democratic governments restored the law to its historic, more ambiguous version”. Indeed, in 1973 the Peronist government of Hector Campora revoked all the criminal law reforms that had been enacted during the previous military regimes, which meant that Article 86 went back to its original form. Later, after seizing power in 1976, the military government of the ‘*Proceso de Reorganización Nacional*’ promulgated new criminal code reform. Htun (2003) suggests that the Proceso’s reform sought to reinstate the ‘scientific and technical advances’ introduced by the Onganía administration, including the more liberal version of the abortion clause.

Despite the apparently more liberal orientation of military governments, the lack of political debate concerning abortion and its strict framing as a technical matter might explain why democratic governments overlooked the issue. At the time, concerns over general political legislation dominated the agenda of these governments, and abortion was not considered as important. This was also the case with the new elected government after the democratic transition initiated in 1983. The radical government of Raul Alfonsín promulgated the 'Law of the Defense of Democracy' (Law 23.077, sanctioned in August 9, 1984). Alfonsín's law revoked all criminal laws enacted under prior military governments, and established procedural norms for the investigation and trial of human rights violations committed by the *Proceso*. An unintended consequence of the Alfonsín reform was that Article 86, concerning unsuitable abortions, was restored to its original, ambiguous form, which allowed debate over its interpretation to continue into the 1990's. For example, an authoritative text by Carlos Fontán Balestra (1991) supported the idea that Article 86 authorizes abortions for all women who have been raped. Another text by Carlos Creus (1995) holds that the article only permits abortions for mentally handicapped or mentally ill women (Htun 2003).

In the context of Latin America as a whole, what is more interesting about the abortion issue is that Argentina was a pioneer in including 'compassionate' abortion in its criminal code. After Argentina did this in 1922, other countries copied the Argentinean legislation: Mexico in 1931, Uruguay in 1933 and Cuba in 1936. All, however, retained the Spanish translation, making it clear that compassionate abortion in cases of rape was a right of all women, not only the mentally handicapped or ill. Nevertheless, the concept of

reproductive rights did not truly exist until it became part of the international agenda during the Conference of Cairo (1994), and further reinforced in Beijing (1995).

In Argentina, abortion and family planning were not traditionally framed as health issues or women's rights, but instead identified with demographic concerns, limiting abortion to constitutional debates. In support of this, Htun notes that the position of the Catholic Church did not as strongly oppose those cases of abortion, because it was framed as a technical issue. On the contrary, since the 1990's the Catholic Church has reacted more emphatically against the reproductive rights movement in North America and Europe (Htun 2003, 149). The different international contexts of the 1970's—when feminist activists from Europe and North America raised women's right to have an abortion on-demand—and the international agenda that emerged in Cairo (1994), established that women's reproductive rights and health are critical to understanding abortion politics in advanced democracies, as well as newly democratic regimes such as Argentina.

Historically, in Argentina as in other countries, family planning—understood as the provision of contraception services—and abortion services were split in the political debate. In this regard, abortion was accepted under a eugenic basis and limited to technical debate. Moreover, during the 1970's, when abortion rights were raised by the women's movement, Argentina went through a period of military dictatorships and human rights' violations. As shall be discussed, during the Cairo Conference in 1994 the concept of 'reproductive rights' emerged, and abortion and contraception services were redefined under that framework.

Welfare State Crisis and Political Instability: From Third Peronism to the Military Junta and the Violation of Reproductive Rights (1973-1983)

In Argentina, the period of post Peronism was characterized by the ‘unsolved issue’ of Peronism. While Perón was exiled in Spain, the people remained loyal to him and his designated leaders in Argentina. This eroded the legitimacy of any new government, including democratic governments, because the Peronist candidates were prohibited from participating in regular elections. As a result of the fiscal crisis of the 1970’s, and the deterioration of the political base of non-Peronist governments, Perón was allowed to run for president again, and won back the presidency in 1973. This third government of Juan Perón (1973-1976) promoted the expansion of maternity protection legislation, and attempted to reconcile work and family life in Argentina.

Thus, in this period Argentina implemented the new ILO regulations regarding women’s rights. New regulations were part of the new labour Law (*Ley 20744/74*), including paid maternity leave of 90 days (45 days before and after childbirth) and women being legally allowed 30 minute rest periods to breast feed. For ‘medical reasons’ the rest periods were permitted for up to one year. The law also included the requirement for day care centers in factories with more than 50 female workers. After maternity leave, women had three options: to continue working in their same position, to resign and receive 25% of their wages as compensation, or to extend their maternity leave for another three to six months, unpaid. The legislation also proposed the creation of the first ‘*Jardines Maternales Zonales*’ (maternal schools in neighborhoods) for children from needy families under the age of 12. The new labour Law adopted during the third Peronist Government (1973-76) extended the protective legislation enacted at the beginning of twentieth century. The commitment to install childcare centers however was never fully implemented.

While women had made important advances in terms of economic independence, education and gender relations, the fiscal crisis of 1970's and the formation of a new military junta limited these opportunities. Pro-natalist discourses became part of the authoritarian government and its political discourse.

As explained earlier, the rise and consolidation of the welfare regime in Argentina depended upon the family as the unit of social reproduction and wellbeing. In addition, women had the main role of contributing to the reproduction of the family through their domestic care activities. The latter was important for the evolution from a domestic to a public gender regime. In this regard, the consolidation of the male breadwinner family form clearly affected women being included in the labour market, as their inclusion was always subordinate to their role as housewives and mothers. Similarly, pro-natalist policies in Argentina had an effect on women's participation in the labour force. Regardless, the huge expansion of both welfare services and the public sector provided good opportunities for women's inclusion into paid jobs.

The period of 1973 to 1983 is distinguished by the fiscal crisis of the state, and the application of 'stabilization' policies. The crisis of the labour market caused: a decline of industrial jobs (2% per year between 1970 and 1987); the expansion of non-waged, informal employment; the growth of work in small business; and a rise in urban unemployment.

Labor market retrenchment was also accompanied by a very repressive and conservative style of government. It is important to note that the military dictatorship of the 1970's differed from previous authoritarian governments in several ways. For example, they were not devoted to the state-led development strategies that characterized

the former bureaucratic/authoritarian state. Rather, they were influenced by the neo-liberal economics identified with the so-called 'Chicago boys'. At the same time, they applied a level of political and social repression previously unknown in Argentinean history, and were more firmly committed to abolishing politics and public activities than preceding authoritarian experiences of the twentieth century.²⁸

Despite the familiar political discourse of the military junta, the regressive measures taken during that period clearly challenged the fundamentals of self-preservation and reproduction of the family that had shaped the Argentinean welfare regime. The last military government (1976-1983) constituted a landmark, due to its attempts to impose a conservative model of gender relations through forced pro-natalist policies, in part a reaction to the 'sexual revolution' occurring around the world. The military government removed pre-existing social rights (in particular women's labour rights) by making changes to the labour Law. For example, it introduced a flexible aspect to norms which favoured the employer, such as the reduction of compensation for layoffs and the criminalization of employment (i.e. penalization for firing pregnant women workers). Without a doubt, the military junta weakened the previous maternity protection legislation, and also affected women's reproductive rights. In addition, the deterioration of labour relations had a particular effect on women. In terms of women's political participation:

"Although Argentina was among the first Latin American countries to establish 'second-wave' feminist groups, military repression meant these groups disappeared between 1976 and 1980, and it was only during 1980-83, with few international contacts and little access to

²⁸ For an analysis of the differences between bureaucratic-authoritarianism and the neo-conservative authoritarian regimes of the 1970's see (Schamis, 1991)

new feminist literature, that groups of mainly middle-class Argentine women began to set up small organizations” (Fisher 2000, 339).

In summary, the feminization of the labour force before and after the 1960’s is related to two distinct processes. On one hand, in the 1950’s and 1960’s women’s participation in the labour force was associated with the process of industrialization, the modernization of gender relations and the bureaucratization of the national state. On the other hand, the fiscal crisis which began in the 1970’s, and deepened in the 1980’s, forced women (mainly those from the low and low-middle income sectors) to enter the labour force. In the 1990’s, the ‘second wave’ of feminization of the labour force would come to be associated with the implementation of the structural adjustment policies affecting women’s status and gender relations.

Three direct gendered consequences of the labour market changes can be observed. The first was the expulsion of women from the industrial sector. According to Garcia de Fanelli (1991) between 1980 and 1989, 33% of women’s jobs in the industrial sector were lost. Second, in 1988 the number of women in domestic service grew from 18.5% to 21.5%. Third, women, most from the low and low-middle income sectors, were forced to enter in the labour market due to the need to supplement men’s wages. Susana Novick (1993) argues that the attack on women’s rights, such as the cuts in the maternity protective legislation during the authoritarian period, contradicted the pro-family and pro-natalist political discourse of the military regime.

As noted, Argentina is a country with a long and persistent pro-natalist tradition that has supported labour legislation to protect maternity since 1934. Despite the conservative nature of the old welfare regime, reproductive decisions remained delegated

to the family, and no family-planning policies of any kind were introduced. After a long period of institutional and democratic instability, the state's involvement in these issues became more evident, as strong authoritarian views on population policies grew, especially during the military dictatorship of the 1970's.

In 1974, President Isabel Perón issued decree 659/74, which prohibited any activity related to reproductive control—such as the sale of contraception in pharmacies—and launched national campaigns ‘to publicize the risks’ associated with the use of medical contraception. In 1977, the military dictatorship issued decree 3.938 “*Objetivos y Políticas Nacionales de Población*”, which included elimination of all activities that promoted reproduction control. Following the recommendations of the National Council of Demographic Policies (*Consejo Nacional de Políticas Demográficas*), the military regime of President Videla issued another executive decree, to prevent infant mortality and prohibit any practice related to medical contraception. Activities related to family planning were canceled for reasons of national security (e.g. to create a stronger relationship between population and territory), based on geopolitical evaluation of hypothetical military conflicts with neighboring countries, as well as the need to increase Argentina's population (Torrado 2004). These decisions had a severe impact on the poor, increasing the gap in the fertility rate and access to health services. Further, during those years Argentina declined to take part in international surveys of fertility and the use of contraception. In 1974, at the Bucharest Conference of Population, Argentinean representatives denounced international intervention in domestic affairs, principally intervention, which was in the interest of the United States. Despite the right-wing orientation of the military regime, and its strong opposition to communism, the

official Argentinean position with respect to population policies was to critique the dominant policies of the United States. In this regard, Argentina followed a politics of isolation from international standards and procedures.

As a part of the debate on reproduction, abortion in Argentina has always been a controversial issue, but the debate was traditionally limited to constitutionalists. As noted previously, paradoxically, Argentina was one of the first countries to introduce 'eugenic abortion' in its civil and penal codes (see Htun, 2004). Yet since 1922, when abortion was included in the Penal Code, this legislation has remained unchanged. Nevertheless, Article 86 remains controversial, and abortion continues to be a matter of constitutional debate above all else. As shall be discussed, however, due to the changes in the international paradigm and the renewed political discourse of the women's movement, health and poverty concerns have contributed to reframing abortion as a matter of reproductive health and rights, as this thesis explains.

The democratization that began in 1983 constituted the second important landmark for women's status in Argentina. This period saw the stabilization of the Argentinean democratic regime, and the emergence of an international agenda of human rights vindication and expansion. Regarding social rights, the new democratic government of Raúl Alfonsín (1983-1989) maintained the maternalist legislation that had characterized Argentina since the origins of the national state, and expanded the family allowance programme created in 1968 by President Onganía. In terms of reproductive rights, Alfonsín abolished the authoritarian norms implemented by the military regime to restrict contraception services. Feminism, however, reached a very limited number of women—mainly in Buenos Aires—and it had not fostered an inter-class women's

movement capable of forging unity around common issues over a diverse platform of demands. In addition, women from the working class identified more with men of their class than with middle-class women, as explained earlier in this chapter. Moreover, as Fisher points out, “[Working-class women’s] decision to reject feminism should be seen in the context of criticisms of the feminist movement, but also against a background of the strong identification of working-class women with Peronism and the historical antagonisms between Peronist and feminist organizations” (Fisher 2000, 340). Fisher also states, “Until the 1980’s, most sectors of the Argentinean women’s movement had engaged with the state; not to promote gender equality but to provide social welfare (Fisher 2000, 339). A weakened feminist ideology and the fragmented character of the women’s movement constitute an important legacy that shaped women’s inclusion in politics after democratization in 1983.

Conclusions

This chapter dealt with the historical legacies of the maternalist and pro-natalist policies in Argentina, and how they affected the way women were included in the labour market and politics. It stressed the centrality of women’s reproductive role in the context of pro-natalist policies and the consequences of democratic instability for women’s political and reproductive rights. Pro-natalism certainly constituted the predominant ideology when the Argentinean nation-state was created around 1880, and it was never abandoned throughout the twentieth century. No democratic or authoritarian regime attempted to alter this aspect of the Argentinean society, which affected the constitution of the family as a social unit and the role that women played in that national project. Three components

of a gender regime were analyzed to illustrate the evolution of the gender regime: women in the labour market, family support—including parental leaves and childcare services—and reproductive health, which is a key element of the gender regime examined in this thesis. As a consequence, the chapter explained how women activists were divided among different political projects. In addition, political maternalism was more influential among women politicians, while feminist expressions were limited to circles of intellectual urban women. Predominant maternalist ideologies and pro-natalist policies constitute an important legacy of the gender regime, and have ramifications on the transformations of current debates on women's reproductive health.

The Argentinean public gender regime reveals two different paths of transformation. First, until the 1970's Argentina's evolutionary gender regime was characterized by a regulatory approach based on anti-discrimination policies, especially after the appearance and consolidation of the conservative welfare state. Second, with the crisis and restructuring of the welfare state new forms of women's inclusion emerged—characterized by what Walby has called a liberal type of public gender regime—marking the centrality of the market as the main welfare provider.

Women's inclusion in the labour market was always regulated by the early development of labour policies to protect maternity. Indeed, maternal protection legislation was originally perceived as means to reduce infant mortality and combat depopulation, rather than to address gender equality in the labour market. Furthermore, women's participation in the labour force created a tension between the medical view of motherhood and capitalist interests in increasing productivity by lowering wages. While the modernization of gender relations and industrial innovations radically changed the

perception of women in the labour force, the nuclear patriarchal family remained the 'ideal' in Argentinean society. Thus, women's inclusion in the labour force was partial, and always affected by the context of their role in the household.

Similarly, women's participation in politics was conditioned by their roles as housewives and mothers. Critical to understanding women's inclusion in politics is the fact that their political participation was first accepted and promoted (during Peronism) because of their gendered attributes. Women's political participation was always understood to be an extension of their domestic activities. Their innate qualities were needed in order to build the nation first, then to strengthen the society and maintain the wellbeing of the family and the community. Demographic pressures accompanying the birth of Argentina as a modern nation increased interest in women's reproductive capabilities, which led to motherhood being exalted and protected, resulting in a form of political maternalism.

While a gender equality discourse had emerged during struggles for the political and civil rights of women—mainly articulated by feminist socialists—the maternalist discourse was always predominant among feminists. At the same time, the early interest of the state in women's reproductive role provided opportunities for some women to become active in welfare services, and they contributed greatly to building the welfare state.

Two important political events in particular have had an impact on women's political discourse and participation. The first was the emergence of Peronism in the political arena. Despite the political changes, which occurred during Peronism, and the new opportunities for women in the public sphere, their participation was always

legitimated through a discourse of ‘difference’, and the respect for their role as moral agents and creators of citizen consciousness. This had a double-edged effect: On one hand, a schism appeared in the women’s movement between Peronists and Antiperonists, a division that was evident in the political spectrum, and not only among women. On the other hand, the distinct way Peronism included women in politics weakened the potential of building and expanding an autonomous feminist ideology.

The second political situation of relevance to the emergence of feminism in Argentina was the unstable political scenario of the 1960’s and the emergence of the military junta in the 1970’s, which negatively affected the building of ‘second wave feminism’ in the country. While women took part in politics, their participation was always within the struggle for structural political changes. This is evident in the social mobilization against the bureaucratic-authoritarian state in the late 1960’s and early 1970’s, and the push for democratization and justice during the 1970’s and 1980’s—such as the mothers of the disappeared (*Madres de Plaza de Mayo*). During these struggles, gender and/or feminist discourse was neglected.

In summary, it can be argued that women played a central role in Argentinean society, and that their participation in the public sphere was perceived then, as it is now, as a valuable contribution. Yet, the persistent fragmentation of the women’s movement, the strength of maternalist ideologies and a weak feminism movement, combined with an unstable democratic scenario, limited the expansion of a gender agenda.

With democratization in 1983, however, the context changed significantly, providing new opportunities for the women’s movement. The persistence of a democratic regime in Argentina and the emergence of an international human rights agenda—

particularly regarding gender issues—contributed to reshaping the perceptions, attitudes and political positions of many women’s activists. With political democratization and the implementation of neo-liberal reforms in the form of SAP’s, the welfare regime was restructured, and this had an important impact on women’s status. The content and gendered effects of these economic and political reforms are analyzed in chapter three.

**Table 3: ARGENTINA: Total Fertility Rate (TFR). Dates between 1870 and 2050
Estimates and Projections²⁹**

DATES	TFR
1869	6.8
1895	7.0
1914	5.3
1947	3.2
1960	3.1
1970	3.1
1980	3.3
1991	2.9
2000	2.6
2005-2010	2.3
2010-1015	2.2
2015-2020	2.1

Source: Pantelides (2000) and Torrado (1999)

²⁹ Projections were done before the new birth control policies (2003-07)

**Table 4: Historical evolution of total population
ARGENTINA**

Year	Population
1869	1.877.490
1895	4.044.911
1914	7.903.662
1947	15.893.811
1960	20.013.793
1970	23.364.431
1980	27.949.480
1991	32.615.528
2001	36.260.130

Source: Instituto Nacional de
Estadística y Censos (INDEC)

Chart 1: Historical transformation of the gender regime (Political regime and state's role)
Argentina 1880 - present

Period	Political Regime/Ideologies	State's role and social policy	Gender regime and gender policies
1880 - 1929	Limited democracy 1912 Male universal suffrage Liberalism/Conservatism/ Socialist ideas	Liberal State/Agro-exporter model Inexistent or residual social policies Building state's capacities European immigration Declining fertility rate	Conservative domestic (strong male breadwinner) Tension between medical/maternalist vs. capitalist interest around women's work First wave feminism (Buenos Aires) Secularization of marriage Pro-natalism 'implicit'
1930 - 1945	First democratic breakdown Increasing military intervention Regime instability Nationalist and Militarist Ideologies	Import substitution model State's intervention into the economy Asistencialism/Incipient welfare European/non-European immigration Internal migration/urbanization Declining fertility rate/population in transition	Conservative domestic (strong male breadwinner) Slow incorporation of women into labor First wave feminism (Buenos Aires) 1934 fist legislation to protect working mothers Pro-natalism 'implicit'
1946 - 1955	Peronism/Inclusive regime Populism/Nationalism 1949 Women's right to vote	State-centered strategy Import substitution model Partial developments in 'heavy' industry Predominance of agro-export products Welfare policies/Corporativism Internal migrations/Urbanization Declining fertility/pyramid replaced	Conservative - strong male breadwinner Women's inclusion into the public sphere Vindication of working-mothers (although traditional gender roles are preserved) Fragmentation of the women's movement Liberals/Socialists vs. Peronists Fist women's offices in the bureaucratic state Adoption of ILO Conventions (working women) Pro-natalism (incentives through welfare)
1956 - 1973	Regime instability Exclusion/repression of Peronism Developmentalism/Militarism 1966 - 1970 Bureaucratic- Authoritarian State	State-centred strategy Import substitution model (crisis) Transnational corporations/Technocratic State Welfare policies/Corporativism	Conservative public - strong male breadwinner 1960s Career women Follow up ILO Conventions Exclusion/repression political movements (feminism) Windows of opportunity in the technocratic state Women's offices and welfare policies
1973 - 1976	Democratic Regime Third peronism (Three Presidents) Peronist - radical (Two party system) Urban violence	State's crisis High inflation	From opening to repression 1975 Isabel Peron's decree banning contraception Coercitive pro-natalism
1976 - 1983	Military Junta Still unstable (four presidencies in seven years) Highest degree of political repression Human rights violations	Economic liberalization Crisis of the Welfare State	Coercitive pro-natalism Suppression of protective legislation for working- mothers Undermining of the fundamentals of the male breadwinner
1983 - present	Democratic regime Political instability due to institutional uncertainty and volatile public policies	Recurrent economic crisis State's restructuring in the 1990s	Destabilization and democratization of the conservative gender regime

Chapter Three

The Destabilization of the Old Gender Regime: Economic Liberalization and Political Democratization and the New Opportunities for Women's Rights

Our strategy was to use this opportunity to our benefit; to make politics more accessible for women, and then to try to change politics according to our perspectives and ideals. ³⁰

Introduction

Chapter two introduced the historical legacies of the Argentinean conservative gender regime, and traced the evolution from a domestic gender regime to a public gender regime, a 'regime' marked by political instability. This chapter focuses on the gender regime transformations after democratization in 1983, stressing the new policies which implemented, the institutional changes affecting women's participation, and women's organizing and discourses. Since the 1980's, economic and political globalization have had profound effects on the nature of the welfare regime, contributing to the destabilization of the conservative gender regime. First, political changes since the 1983 democratization provided a new political opportunity structure to advance women's rights. This chapter highlights the several attempts to define and install a gender equality regime favored by the political transformations resulting from the start of the democratization process in 1983, and the new opportunities provided for the politics of human rights. Second, along with these important political transformations, the implementation of SAP's during the 1990's, and the increasing levels of impoverishment

³⁰ An anonymous women's activist relating the events that anticipated the sanction of the quota law in Argentina in 1991 (quoted in Bonder and Nari 1995, 189).

and its gendered effects, altered the basis of the conservative gender regime by pushing women into the labour market. The analysis of the welfare mix is important to understanding the destabilization of the conservative gender regime; households were severely affected by the restructuring of welfare services. This rise in women's poverty, and the related imbalance of biological and social reproduction, has unintentionally created favorable conditions for raising the issue of changes in the reproductive policies of birth control.

The attempts to define a gender equality agenda and advance women's rights were made in the context of welfare retrenchment, and this had a negative effect on social rights. Although the formulation of a gender agenda in Argentina is related to the different opportunity structures and the use Argentinean women have made of new institutional arrangements, previous developments related to democratization, and the attempts to define an international gender agenda at the domestic level, are critical to understanding gender regime change. While considering the interconnectedness of the different scales of action, this chapter focuses on the formation of the Argentinean gender agenda, and the role of the current women's movement's political discourse.

The first part examines the changes in the political opportunity structure resulting from the democratization process initiated in 1983, and the expansion of the human rights framework in which women's activism started to emerge under a new basis. The second part considers the neo-liberal policies implemented since the 1990's under the presidency of Carlos Menem, and its effects on families and women. Thus, the chapter looks into the analysis of women's organizing, and the discourses that shaped women's opposition to Menem's economic and social conservatism. A relevant aspect is women's contribution

to changes in the institutional framework—in particular the adoption of the quota system—which would have important consequences for the advancement of reproductive rights in the legislative arena. This development also must be seen in the context of the new opportunities and strategies of women's organizing. The chapter also looks at the CNM as a site of contestation, in which the government attempted, with varying degrees of success, to control gender and reproductive health policy through its appointments to the CNM. Women's advocacy is analyzed with regard to its interaction with the state. In this respect, women's increasing involvement in the national and city bureaucracies and the legislative process is highlighted. The third part focuses on the events that occurred after the 2001 financial crisis, and the new economic and political context that, paradoxically, created opportunities for debate over reproductive rights. At the end of the chapter, a chart explaining the development of the Argentine gender regime since democratization is presented (See Chart 2).

Democratization and a New Political Opportunity Structure for Women's Rights

In 1983, a new democratic government was elected after the collapse of the military junta that had been in power since 1976. For the first time since 1955, the Peronist party was able to participate in general elections. It was also the first time the Peronista Party lost an election. After a long history of democratic instability and authoritarianism, the UCR (Unión Cívica Radical) party—a middle-class, social-liberal political party—won the election with more than 50% of the popular vote, and appointed Raúl Alfonsín as the first democratic President. President Alfonsín developed an important campaign for the advancement of human rights and the need to install and consolidate Argentinean

democracy. During his government, the former military junta was judged according to the severe human rights violations (*Crímenes de lesa humanidad*) that occurred during the 1970's. In addition, Alfonsín steered a visible foreign policy aimed at reinstating Argentina as a democratic country, which adhered to several international conventions and regimes of human rights.

With the establishment of Alfonsín's democratic government, the resulting progressive expansion of human rights was a favorable opportunity structure in which to raise women's issues. During the 1980's, the debate was dominated by the need to expand women's political and civil rights. In that decade the most significant gender equality reforms were in the domain of civil law, such as the new family law that included divorce and *patria potestad compartida*, which acknowledged equal rights and duties for women and men. There was also the possibility for children born either outside marriage, or to parents married to other people, to be recognized as legitimate by their biological parents. Also in this period, women's social rights were extended through the adoption of new legislation regarding pensions for women who were in cohabitating relationships, but not legally married. In the domain of political rights, women from political parties advocated for the inclusion of women's quotas in the party lists.

In 1986, Argentinean women started to celebrate their regular annual '*Encuentros de mujeres*' (women's national congress). These gatherings took place in a different province each year, and were attended by 15,000 to 20,000 women from all over the country. In the congresses, women started to build common discourses questioning the basis of the gender regime. In addition, there was a process of regionalization,

characterized by a strengthening of the networking of Latin American women's activists, and an internationalization of the women's movement.

Also In 1986, Alfonsín's government abolished the two decrees of the military junta that prohibited contraception services, and restored the rights of couples to decide the upon the number of children they would have, and the length of time between the children. Family planning services were also established. The decision also referred to the Population Conference in Mexico in 1984, which asserted the full basic rights of individuals to decide on their reproduction. In 1987, a plan oriented toward the development of responsible parenthood by giving information to families was established in the Ministry of Social Security, in particular within the context of the Secretary of Health, Human Development and Family. The Ministry of Health and Social Action,

“...will promote actions oriented towards improving mothers' and children's health and developing and strengthening the family in its character as the basic cell of society. With that purpose, activities of diffusion and counseling will be implemented in order to facilitate the effective practice of reproductive rights of the citizens with increasing freedom and responsibility” (Quoted in Zurutuza 1998, 54)

Despite the abolition of previous repressive norms and advancements in the field of responsible procreation, few specific measures were taken to address the issue. The city of Buenos Aires was an exception, however, even before being granted governmental autonomy. In 1988 the Municipality of Buenos Aires implemented the “*Program of Responsible Parenthood*” (Programa de Procreación Responsable), the first programme to provide contraception and information via the public hospitals.

Nonetheless, with the political democratization of 1983 a new opportunity structure began to emerge for women, and this helped the new democratic Argentinean

State to take an important step forward in the development of human rights. The recognition of 'formal' women's rights, when the National Congress ratified CEDAW in 1985, was a consequence of the larger public debate on human rights after the repressive period of 1976-1983. In Art.16, CEDAW establishes, "The same rights [for men and women] to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights".

After the ratification of CEDAW in 1985, President Alfonsín created the first women's office in Argentina in 1987. The '*Subsecretaría de la Mujer*' (Women's Sub-secretariat) was, however, under the control of the Ministry of Social Action, and did not play a central role in incorporating gender equality issues. A likely explanation for this is that reshaping the gender equality agenda in the international arena was slow in its early stages. As noted earlier, the maternalism and familialism founded in the historical legacies of the Argentinean gender regime had contributed to the neglect of any social debate on reproductive rights.

Moreover, in the 1980's the debate in Argentina, as in the international arena, remained limited to demographic concerns and the provision of family planning services. For example, during an academic debate that took place in Buenos Aires city in 1987, organized by the Arturo Illia Foundation and Plural Foundation (both associated to the Radical Party in power at that time), Susana Torrado maintained that the expansion of the Argentinean population was sustained by the precarious living conditions of the poor. In addition to implementing family planning policies that ensured reproductive rights for poor women, she emphasized the need to adopt other measures to encourage middle-class

families to have more children to avoid the problem of an aging population (Torrado 1987, 61). It was only after the Cairo conference in 1994, which reformulated the principles of demographic policies and the internationalization of the women's movement, that the Argentinean debate began to focus on women's rights and reproduction as a health issue. This development is explained in chapters four and five.

The 1980's general context of democratization, however, was challenged by macroeconomic instability. While there was a clear expansion of political rights, social rights were negatively affected by a severe crisis, and the implementation of neo-liberal economic reforms in the 1990's. This development is presented in the next section.

Welfare Restructuring and Structural Adjustment Policies in the 1990's

The social and economic situation inherited from the former military junta, and the severe opposition of the powerful Argentine trade union—the Confederación General del Trabajo (CGT), politically identified with the Peronist party—challenged the electoral chances of Alfonsín's government. In 1989 Menem, the candidate of the Justicialista (Peronist) Party, won the national election by promising to implement typical peronist populist-oriented policies. Once in power, and under a severe economic situation which included hyperinflation, Menem reorganized the government and established ties with the business sector. He also co-opted the UCDE (Unión de Centro Democrático), a conservative right wing political party with a small electoral base, and he promoted the division of the CGT, though he did maintain the support of some important trade union leaders. This alliance between factions of the capitalist class and the working class allowed him to implement a transformative macroeconomic plan to stabilize the economy

and secure economic growth favoring exports, and to expand credit lines for waged workers. In 1991 he implemented a liberalization economic package, which included the privatization of public enterprises and the elimination of tax barriers on exports, imports and subsidies. He also created a new currency board (the convertibility plan that established the parity between the Argentine peso and the American dollar) to eliminate inflation, and made important social cuts by transferring social services to the private sector and/or the provinces. Although there was considerable resistance and negotiation with the various constituencies, important reforms were made in health, education, pensions and family support policies.

The implementation of neo-liberal policies during the 1990's had a significant impact on families, since the cutbacks in social spending put families under extra pressure to deal with the emerging socio-economic situation. As Barrientos points out, in contrast to conservative regimes in developed countries, in Latin America, "Workers in informal employment relied instead on the household and the labour market as sources of insurance against social risks" (2004, 167). The social situation was characterized by an aging population, the feminization of poverty, high unemployment rates for both men and women, and a growing presence of women in the 'informal' job market. The provision of social services had to rely too much on the families, and the decline of the male breadwinner put more pressure on the families to absorb social risks.

The Argentinean gender regime has thus been evolving from a strong male breadwinner form to a neo-familial type, within which basic gendered roles are preserved. Indeed, the breakdown of the male breadwinner family form has altered the relationships between paid work, unpaid work and welfare protection for women. These

changes were generated by structural adjustment policies implemented during the 1990's, which pushed women into the labour market and created the need for care services, as women had to assume other responsibilities outside the family.

As a result of this situation, families and households have received considerable attention in Latin America (Barrientos 2004). Similarly, recent social policies promoted by international organizations as part of the second generation of state reforms have emphasized 'the family'—at least indirectly—as the means of strengthening grassroots 'social capital' and maintaining survival in conditions of economic insecurity. In Argentina, as in other countries of Latin America, the traditional form of the family has constituted the ideal and main pillar of society. Regardless, other forms have emerged due to a combination of factors, such as the modernization of social life and economic restructuring.

The fiscal crisis of the state that occurred in the 1970's, and the adoption of neo-liberal policies during the 1980's and 1990's, have had important effects on women's status. While both men and women have been affected by welfare regime change, the impact on women has been particularly strong.

Women and the labour Market in the 1990's: The Destabilization of the Male Breadwinner Family Form

The structural adjustment policies implemented during the early 1990's accelerated the incorporation of women into the labour market. As argued in chapter two, in the 1960's women started to gain positions in the labour market, mainly due to changes in labour supply, increasing opportunities in the services sector and higher women's education

rates. Nevertheless, the women's labour force rates remained moderate. In the 1980's and 1990's, however, women's labour participation was prompted by the need to compensate for the loss or reduction of their spouse's income, mostly in middle and low-income families. From 1991 to 1995 female labour participation rates grew from 38.1% to 45.8%. The largest increase took place between 1993 and 1995, due to the Mexican financial crisis that impacted other emergent economies, such as Argentina's.³¹

As Cerrutti argues, "This increase was greater than the one experienced by almost all age groups during the 1980's...during periods of structural adjustment, lower and middle-class households are particularly affected, and women who belong to these sectors had to start looking for jobs" (2000, 885). Indeed, by 2006 women's participation in the labour force in the metropolitan area of Buenos Aires was higher than 50%. In addition, since 2002, and as part of the new active unemployment policy, the payment of cash transfers to heads of households (70% of households are headed by women) helped to raise the official labour force participation rates, since these transfers were considered as paid employment. Cerrutti has pointed out that the main effect of SAP's on women's work is the intermittent character of female employment among poorer women, who face additional problems in combining paid and domestic work. She argues,

"The influence of family composition on women's labour careers is mediated among other factors, by the socio-economic level of the household. Besides the fact that middle-class women have smaller families, have a less traditional view regarding gender roles, and have higher levels of education, which allow them to obtain more rewarding jobs, they are also able to afford domestic and childcare services. Middle-class women have, therefore, a more stable labour force

³¹ The peso Crisis in Mexico revealed the extreme interconnectedness of the world economy and its fragility. A financial crisis occurred in one emergent economies had immediate consequences in other emergent economies such as Argentina, due to the extreme dependence of the international investment in domestic financial market.

participation because they are more committed to their jobs and are able to establish stable domestic arrangements in order to work” (2003, 310).

This situation clearly resulted in the need for care services, as women assumed responsibilities outside the family. The limited access to public childcare services has had a negative effect on women’s work. Data provided by INDEC indicates that the participation of women in the labour force is reduced to the half when women have three or more children. Among women between 15 and 49 years old with no children, 70% work. This is reduced to 59.7% for women with one child, and 35.3% for women with three or more children under six years old. Thus, due to domestic duties (including childcare) and difficulties in finding help outside the family, poorer women are more likely to take precarious jobs in the informal sector (Cerrutti 2000).

The difficulty in finding affordable childcare for poor women combines with the limited access to contraception services and reproductive rights. While the total Argentinean fertility rate is 2.3 (estimated for the period 2005-2010), study of the actual fertility rate shows deep regional and class differences among women, as noted in the Introduction. Thirty nine percent of women of non-poor households have no children, while the 84% of mothers of these households have between one and three children, and only the 16% have four children or more. In contrast, 29% of poor women were not mothers, and 41% of poor mothers have four or more kids. Regional differences are also an important factor. While the fertility rate of Buenos Aires city women is 1.3, in Formosa, a poor province located in the Northeast of Argentina, it is 2.8.

The destabilization of the old gender regime was also the result of changes in the traditional family. A critical aspect of these changes is the modernization of gender

relations. Greater gender equality due to increasing financial autonomy has had an effect on marriage. In the last decade, Argentinean society has faced lower marriage and higher cohabitation rates. For example, in Buenos Aires city the cohabitation rate in 1960 was 1.5%, in 1991 13.6%, and in 2001 it grew to 21% (Jelin and Díaz Muñoz 2003). The overall average for the country reveals a cohabitation rate of 7% in 1960, and 18% in 1991. Also in Buenos Aires city, the right of homosexual couples to enter into civil unions—with similar rights and obligations as marriage between heterosexual partners—has been legislated,. There are currently several bills to be debated in the National Congress regarding extending the civil union legislation to the whole country.

A new phenomenon is the appearance of ‘female-headed’ households, which is associated with the feminization of poverty. In 1990, the percentage of female-headed households was 21%, and in 1999 27%. Nonetheless, these types of households exist in all social strata, though their determinants are different. For the higher income sectors it is a result of higher divorce rates and the process of aging (27% among female-headed households). For the poor (28%) or ‘indigent’ (37%) of the population, it reflects the fact that this type of unit is unsustainable without support (i.e. the feminization of poverty), and that many of the recent social assistance programs have targeted these groups as part of poverty reduction strategies.

A second factor that affected families and women’s status was the impact of structural adjustment policies. In the 1990’s several factors contributed to destabilizing the ‘strong’ male breadwinner family, including the modernization of gender relations due to women’s advancement in society, and new family forms which resulted from higher divorce rates. More important was the implementation of structural adjustment

policies that added pressure on the traditional family support model (Lo Vuolo 1995; 1997).

During the welfare retrenchment period of the 1990's, Menem's government followed the neoliberal path of de-familialization via private provision of childcare services and the downsizing of the family allowances program—the key institutional family support maintaining the strong male breadwinner form. In Argentina for example, the restructuring of family benefits has strengthened the dual nature of the welfare regime. It has also promoted, rhetorically at least, the adoption of policies related to the 'reconciliation of work and family life agenda', though this was accompanied by the adoption of all the recommendations included in the ILO, such as maternity leaves and special measures to protect workers with family responsibilities, as discussed in chapter two.

The encouragement of private childcare as part of a general trend to privatize the education system is another example of defamilization via private provision. Privatization, and the lack of childcare services for the poor, increased the inequality and fragmentation of the system, forcing poor, working mothers to search out informal arrangements, which made family efforts to provide wellbeing more difficult. To be sure, for those who do not have access to market services, "...the sources of insurance have been restricted to relatives and friends, employment, and a patchwork of informal networks" (Barrientos 2005, 140).

Finally, the destabilization of the male breadwinner family form was the result of government's interventions to cut public spending. The restructuring of family benefits

had a particularly negative effect on household income, with the subsequent gendered effects.

The Family Allowances programme and the Dismantling of Family Benefits in the 1990's

In Argentina, both men and women have access to family allowance benefits, regardless of their position in the labour market. While the family is the unit of entitlement, the recipient is the head of household (the one with the highest income), which avoids double payments in the case of double earner couples. Women workers—particularly those in the textile and food industry, though teachers, nurses, and other public sector workers as well—benefited from family allowances. Nevertheless, men were usually the recipients of this benefit due to their better position in the job market. Although the family allowance programme entitled workers on a gender-neutral basis, the weaker position of women in the labour market and the persistence of women in the lower labour force contributed to reinforcing the male breadwinner family form³².

This system has been deteriorating since the 1970's, due to two factors. First, the number of retired workers receiving benefits has increased, while contributors have not increased accordingly. Second, as in the case of the pension system, there has been a continual transfer of resources to fund other social policies. Consequently, the real level of benefits deteriorated. For example, in 1988 the social benefits a 'typical Argentinean family' received—a couple with two children—was equivalent to 20% of the amount provided in 1970 (Torrado 2004). This indicates that the basis of the entitlement was

³² For a comparison between social risks and women's welfare in the southern cone see Pribble (2006)

limited, due to the spread of the informal economy and the gender segregation of the labour market. The fiscal crisis of the state that began in the 1970's, and the increasing deterioration of the labour market provided the domestic basis for the legislative reform of the 1990's. Also, government policy itself has contributed to the disarticulation of the traditional family model, through the neo-liberal restructuring of the labour market and family benefits.

As explained in chapter two, in 1968 the President, General Onganía (bureaucratic-authoritarian state), created the '*Cajas de Asignaciones Familiares*' (family allowances) to replace the former '*Cajas de Maternidad*' (Maternity Insurance Funds) implemented in 1934. The Fund remained under the control of the '*Caja*' until 1991, when Menem's government transferred the programme to the Ministry of Work and Social Security.³³ Prior to the implementation of the structural adjustment policy, the benefits of the family allowances programme were divided in three groups: One, periodic-monthly benefits per spouse, per child until 15 (or until 21 if s/he attends school), per large families '*familia numerosa*' (additional for each child over 2 years old),³⁴ and per each child attending school at any level (elementary, high school or university); two, periodic-annual benefits (annual holidays and elementary school

³³ The "*Caja de Asignaciones Familiares*" was a regulator agency of the different branches under the control of the trade unions. The elimination of the "*Caja*" was another step to undermine the power of the organized workers.

³⁴ Torrado (2004) refers that this is part of the pro-natalist orientation of the benefit. It is important to say however that this benefit was included during the presidency of Raúl Alfonsín as a way to remedy the pauperization of the Argentinean families that started in the 1970's.

support); and three, non-periodical benefits (benefits per working pregnant women, per child birth or adoption and per marriage).³⁵

As part of a broader move toward flexibilization of the labour market, in 1996 the Peronist government decided to change the nature of the programme by limiting the scope of benefits for Argentinean families. Two main changes were significant: First, a change in terms of gender relations involving the elimination of the benefit per spouse. Second, the de-universalization of the programme (i.e. workers with earnings above \$1,500 per month) were excluded from the program. Another important consequence of the labour market changes and the characteristics of the new programme was that the programme was limited to formal registered workers, while the rest—usually the poorest with greatest family responsibilities—were excluded from benefits. By 1980, jobs entitled to receive benefits in the modern sector represented the 70% of waged work, while in 2000 it had decreased to 53%. This means that, currently, almost half the working population are outside the social security system.

Changes in the labour market have contributed to the fragmentation of the program. The so-called ‘flexibilization’ of the labour market through the creation of new jobs based on ‘fixed-term contracts’, and the lowering or elimination of social contributions have deepened the fragmentation and incompleteness of this sensitive social policy (Lo Vuolo 1995). In addition, the incremental deterioration of the system prior to 1996 contributed to the lack of legitimacy or social support for these social benefits. The trade unions—who controlled the different ‘*Cajas de Asignaciones Familiares*’—were already too weak to resist the transfer of the system under the control of the *Ministry of*

³⁵ Again, according to Susana Torrado (2004) this was an incentive to legalize unions.

Work and Social Security (Ministerio de Trabajo y Previsión Social). In the past, family benefits had been a powerful resource for the trade unions. While these changes did meet resistance, labour market restructuring and the reduction of social contributions exacerbated the crisis in the system, undermining its political importance and providing the material basis for domestic change. The flexibilization of the labour market and the expansion of the black market economy have constrained the programme by excluding the poor from receiving family social benefits. The family allowance programme has increased the fragmented character of the Argentine welfare regime.

Changes in family composition, or the abrupt inclusion of women in the labour market, cannot be attributed only to the changes that occurred in the family allowances program. Nevertheless, such changes added to the pressures on the male breadwinner organization of the Argentinean family. Two of the significant consequences of the changes has been the feminization of poverty, and the dual earner or female head of household family forms. Changes in families and the destabilization of the male breadwinner affected women's status and gender relations, and resonated with women's organizing and discourses.

Neo-liberal Policies, Women's Organizing, and Gender Policy Discourses

Over the last 25 years, political democratization and economic liberalization in Argentina have had paradoxical effects on women's citizenship. While in the 1980's and early 1990's women achieved an expansion of their political rights, the 1990's led to reduction of economic rights, and a 'radicalization' of the reproductive rights debate. Along with the destabilization of the old gender regime, the implementation of SAP's and the new

democratic politics contributed to shaping women's organizing and policy discourses. As a consequence of the destabilization of the male breadwinner family form and the feminization of labour and poverty, women's discourses were redefined under a common critique of neo-liberal policies. Yet divisions and tensions within the women's movement and its political views of the Menem government remained, reflecting the legacies of women's organizing and ideologies. Part of the women's movement, particularly the maternalists led by the Sindicato de Amas de Casa (SACRA), established links with Menem to advance some of their concerns. This was the case with the pension for housewives and other initiatives promoted by the SACRA and Menem. SACRA represented the first attempt to organize working-class women since the *Partido Peronista Femenino* (PPF), the women's branch of the Peronist party formed in 1949. SACRA claimed a membership of a half a million predominantly working-class women (Fisher 2000, 323). Although SACRA had been created during Alfonsín's government, it identified itself as Peronist, and did not get involved with the new democratic government. As Fisher notes, "They rejected many of the gender reforms [pursued by the new government] as biased toward middle-class women, particularly the ways in which the divorce and equal parental rights laws were framed" (2000, 328). The alliance of SACRA with Menem, however, had contradictory effects on the role that housewives played in the neo-liberal period of the 1990's. As Fisher points out, "Some of the consequences of Menem's policies, including unemployment, increased social inequality, cutbacks in social services and a series of anti-trade unions laws, were in direct conflict with SACRA's basic objectives" (2000, 330). Moreover, SACRA's ideas about valuing the reproductive role of women did not challenge unequal gender relations such as the

traditional division of labour. “Instead, they did so as a method to assist women with the burden of domestic work. Similarly, there was little emphasis on sharing domestic responsibilities with men” (Fisher 2000, 334).

Other women took issue with Menem’s government and policies, particularly in the case of reproductive rights, and this became an important source of conflict within the CNM. Despite these internal divisions, however, women were able to build common discourses empowered by international developments on gender equality. The globalization of the women’s agenda and the internationalization of women’s advocacy networks provided an unprecedented opportunity structure for women’s struggles within national borders. The regionalization—women’s regional integration through UN related regional conferences and feminist Encuentros—of the Argentinean women’s movement must also be considered in relation to Argentinean adherence to the structural adjustment policies promoted by the IMF and the World Bank during the 1980’s and, more strongly, in the 1990’s. The participation of the Argentinean women’s movement in regional conferences, and the adoption of a common discourse against neo-liberal policies implemented in the region, contributed to reshaping the Argentinean women’s demands within a new framework.

Together with ‘regionalization’, the Argentinean women’s movement has followed two other strategies to pursue women’s interests.³⁶ One was the strategy of ‘transversal politics’, which was important for advocating women’s issues in the legislative arena by breaking party discipline—remarkably, in the local and national legislative battles for reproductive rights. This strategy has its roots in the Latin American

³⁶ Several interviews conducted in Buenos Aires with activist of the women’s movement were used to reconstruct these strategies.

women's meetings, which had the purpose of introducing a feminist and gender perspective into the political debate. Transversal politics means finding commonalities based on women's experiences and realities beyond party politics. This tool helps women put aside political and social differences and identify themselves as part of a gender collective. For example, in the World Social Forum, women concluded that,

“The struggle must be transversal, in other words, constructed on the intersections of women's different realities, priorities and experiences. It is impossible to put an end to oppression without also examining the differences in privileges amongst women; therefore, these differences must be recognized and debated. A true plurality must be put into practice, constructing spaces of inclusion that also respect our autonomy and uniqueness. Crossing the question of race with class, gender and sexuality women can propose a model of diversity and solidarity to confront the homogenizing effects of neo-liberal and authoritarian thought” (Marchand 2003, 155)

In the Argentinean context, the idea of ‘transversal politics’ was initiated during the battle to introduce the quota in the National Congress, and several subsequent women's initiatives promoted by women MP's in parliament. These events will be specifically analyzed later in this chapter.

The second strategy is the ‘double militancy’ of women's activists; several women who participated in the women's movement are also members of political parties (Lipszyc 2002). This has created opportunities to translate some women's demands into the political domain, which may help to explain the selective way women's issues have been included in the goals of state agencies and in policy programs.³⁷

³⁷ In a comparison between Chile and Mexico, Franceschet and MacDonald compare ‘double militancy’ and ‘autonomy’ as opposite strategies used by the Latin American

As shall be discussed, transversal politics was very important for the women's movement in their pursuit of political and reproductive rights. Yet the movement has remained divided along party, social and cultural lines. Women activists identify themselves as feminists or non-feminists (maternalists), or as politicians or autonomous individuals. In addition, generational and class differences emerged in the 1990's with the appearance of women from the '*popular sector*' (working-class women), who denounced economic injustice as a consequence of structural adjustment policies. As a result, the Argentinean women's movement is very diverse, and this creates a 'mosaic' of ideas and interests that are not easy to reconcile. In chapter two, the origins of the fragmented character of the Argentinean women's movement was discussed, particularly the influence of the first Peronism era on women politicians. In addition, generational and class differences emerged in the 1990's with the appearance of women from the '*popular sector*' (working-class women), who denounced economic injustice as a consequence of structural adjustment policies. Also, the weakness of political feminism, and the predominance of maternalist ideologies among women, limited the possibilities to advance a common agenda. Yet changes in the international context and the new strategies and ideologies developed by Latin American women have had an important impact on the Argentinean women's movement, as will be developed in chapter four. The new strategies of the women's movement redefined the role and opportunities to advance women's concerns, and were an important break with the past.

Feminized poverty has shaped women's discourses, to the extent that all other women's issues have been linked to the negative effects of the structural adjustment

women's movement during the democratic transition. (Franceschet and MacDonald 2004)

policies. In this regard, a special emphasis emerged on the eradication of poverty, particularly the general concern about women in poverty. In this scenario, issues such as childcare, the value of the unpaid work of women and, especially, gender-based violence have acquired an increased significance in recent years. As indicated in the previous section, this is very relevant to the Latin American context in general, and to Argentina in particular. Women's representatives have also indicated their concern by getting involved more frequently in social policy issues in the National Congress (Marx et. a. 2007, 218). In addition, a marked concern with maternalist policies has occupied the attention of newly elected women legislators (Marx et. al. 2007, 220) Yet, women activists have been divided between those who critique the neo-liberal paradigm, and those who accept women's policies and programs promoted the poverty reduction strategy.³⁸ This tension has been reflected in the different political projects of the Argentinean governments, their interpretation of women's issues and the role that women politicians and femocrats are playing in the bureaucracy.

The fragmentation and ideological division of the women's movement is important to understanding the limits to advancing a common gender equality agenda in Argentina. Moreover, the antagonistic political projects of different governments were reflected in the women's policy machinery, which was originally created to mainstream gender equality in the Argentine state; this had a disempowering effect on the agency. Yet transforming the political arena was an important achievement of Argentine women,

³⁸ I wish to clarify the difference between women's policies and gender policy. The first one implies that women are the recipients of most social programs, usually targeted social assistance programs. Gender policy, on the other hand, attempts to reformulate gender (asymmetrical) relations. The latter should be identified with a gender mainstreaming approach.

and vital to advancing reproductive rights. The next section focuses on these developments.

Opening the Political Opportunity Structure: Women's Quota and the Women's Policy Machinery – CNM

Transversal politics, double militancy and women's policy machinery were some of the new forms and strategies of women's organizing. As suggested in chapter one, in order to account for women's inclusion in the public arena, and their capacity to influence public policy, we must broaden the range of possible arenas of women's activism. In this section, three main arenas that constitute the national political opportunity structure are identified: the bureaucratic arena (i.e. the creation of women's policy machinery), the legislative arena, which became an important site to advance women's rights, and the women's movement (i.e. women outside formal political institutions) whose participation is critical to understanding political discourse framing, particularly because of their transnational links. Indeed, the links between women positioned in these different formal and informal political domains constitutes the triangle of empowerment of women's activism.

The new strategies have helped alter the institutional context of representation. In 1991, the introduction of the quota law to the electoral regime increased the representation of women. Initially, political representation of women in the National Congress was very poor. In the 1983 election, only 3.6% of the new deputies were women, and this ratio was sustained in the 1985 and 1987 elections. Later, however, a significant institutional change in the electoral system was introduced, which resulted in a

large increase in the number of women deputies. The progressive inclusion of women in representative positions contributed to establishing women's demands, and to building coalitions supportive of gender policies.³⁹

Passed in 1991, the quota law (*Ley de cupos*) stipulated that at least 30% of all electoral candidates had to be women, and they must be placed in winnable positions on the closed party lists. Although there was resistance to this at the beginning, the quota law introduced important changes, which led to a significant rise in the number of women elected (Htun and Jones 2002; Jones 1996). With the adoption of the quota law in the reformed Constitution of 1994, the newly created the CNM and women's advocates were allowed to initiate court challenges to the party lists. This resulted in an increase in the compliance rate, with most parties placing women in winnable positions. In 1995, 27.7% of elected deputies were women, while according to 2005 data, 35% of representatives in the Deputy chamber were women, and 41.7% of Senators (Marx, et. al. 2007). What is notable about the implementation of the quota law is how deep and widespread its influence was, resulting in women quotas being implemented in trade unions—with varying degrees of compliance—and the adoption of the concept in other Latin American countries⁴⁰.

³⁹ Since 1983, women from political parties have advocated for the inclusion of women's quotas in the party lists. In particular, Peronist women called for their own party (not successfully though) to restore the 33% of women representation that Eva Peron installed in 1947.

⁴⁰ Argentina was a pioneer in Latin America in forcing political parties to adopt women's quota by law. Although some academics are skeptical as to the benefits of this 'fast track' way to increase women's representation, others argue that, "a gender shock" [a quick and large increase in the number of women in parliament] increases the opportunities for women to change the rules and content of politics" (Dahlerup and Fridenvall 2005, 43)

Women's actions to pass the quota law were an important example of transversal politics. On the occasion of the law being sanctioned by the national Congress, women politicians—the '*Red de Feministas Políticas*' (Network of Political Feminists)—mobilized across party lines to target key deputies and push them to approve the bill.⁴¹ The women's coalition was also supported by the CNM, which participated actively in the political campaign. Part of the feminist strategy to get the law passed was, "...to stress that quotas would help to make Argentina a modern and fully democratic society and as such they were attempting to use the opportunities afforded by the political context of consolidation"⁴² (Waylen 2000, 776).

The quota law has been subjected to strong criticism over such aspects as its antidemocratic character and its effectiveness for promoting gender equality. In particular, the lack of feminist commitment, or even attention paid, to women's issues by women politicians has raised concern among autonomous feminists. Additionally, political parties still maintain power over the appointment procedures through their control of the party lists, which could negatively affect the chances of feminist women being nominated.

Many feminist activists have criticized some women MP's for their lack of commitment to gender equality. Regardless, these MP's have recognized the importance of transversal politics and women's networking as strategies to advance reproductive rights in local legislatures, as well as the National Congress (Interview 16). Moreover, women politicians give great significance to transversal politics. Some acknowledge that

⁴¹ Some of the women activists of that time tell they were for 12 hours in the chamber shouting and claiming to their male colleagues for the approval of the law.

⁴² Argentinean feminists interviewed by Georgina Waylen in Buenos Aires in 1996 (Waylen 2000)

transversal and coordinated activity in the national congress has recently included even women from right wing parties. A deputy of the Socialist Party argued, “With the years we all have learned. For example in 2006, we have worked together much better than we did in the previous years” (Interview 24). Among feminist’s achievements during 2006, this Deputy also mentioned the contraceptive surgery law, sex education and the ratification of the optional protocol of CEDAW. Though others are more skeptical regarding the use and effectiveness of transversal politics, most agree that working together—both outside and inside Congress—has been important to passing the quota law. In addition, it contributed to framing the reproductive rights debate, which became a ‘hot’ topic in the national congress, as well as in the broader public agenda (Interview 25).⁴³

The effectiveness of the women’s quota was evident in one of the central debates during the national constitutional reform of 1994. On this occasion, women’s representatives comprised 26% of the constitutional convention, and their active participation in the debate (together with the lobby of the women’s movement) was a key determinant in the rejection of an explicit antiabortion clause in the new Constitution fostered by President Menem, the Catholic Church and other conservative groups. Also, women’s advocacy was critical to the inclusion of CEDAW in the Argentinean Constitution, thereby making Argentina the only member state to include the international convention in its constitution. Furthermore, though it took a decade of struggle, the quota law was important in promoting specific women’s issues such as gender-based violence and the new ‘Sexual Health and Responsible Procreation Program’

⁴³ Franceschet and Piscopo (2008) also presented the same findings about links between women MP’s and feminist from the women’s movement in Argentina.

(2003), a law which attempts (at least in part) to ensure reproductive rights through access to contraception and counseling.

The CNM in the 1990's: State's Modernization and a 'Women's Friendly' Policy

In contrast to the '*Subsecretaria de la Mujer*' created during Alfonsín's administration, the National Women Council (CNM) can be considered the Argentinean women's policy machine; an example of 'state feminism'. Its formation in 1992 was prompted by women politicians, particularly those who belonged to the newly elected Peronist government. The creation of the CNM's was part of the modernization of the state, which aimed to improve administrative performance in the bureaucracy and introduce positive measures to include women in the public sector. Nevertheless, its establishment, by presidential decree of Carlos Menem, coincided with the adoption of the neo-liberal agenda promoted by the Washington Consensus.⁴⁴

The founding of the CNM was part of a global process of installing women's state machineries, with the purpose of promoting and monitoring a 'gender perspective' across all public policies (mainstreaming). Similar policy instruments were also implemented in Chile (SERNAM-*Servicio Nacional de la Mujer*) and Brazil (CNDM-*Conselho Nacional dos Direitos da Mulher*). These agencies, however, are usually understaffed and lack the material resources to be effective. Goetz (1997) and Kardam (1997) have noted that,

⁴⁴ In actual fact, there are three different phases in the creation of the CNM. Originally a presidential decree created the '*Consejo Coordinador de Políticas Públicas para la Mujer*' (Coordinative Council of Public Policies for Women) in 1991. One year later, in 1992 the National Women Council was created as a 'Sub-secretariat', depending on the executive. One year later however, the CNM was empowered acquiring the status of 'Secretariat of State' with the specific mission to implement the quota law and the Plan of Equality of Opportunities for Women and Men.

paradoxically, the lack of empowerment and resources provided to these agencies motivated their leaders to establish links with civil society organizations, and thus become more receptive to women's demands, though this is only partially true in the case of Argentina. In fact, the CNM there was progressively deflected from its initial goal and isolated from the women's movement and its demands. Its poor performance and political weakness were also caused by the persistent political instability of the new Argentinean democracy, and the consequent lack of continuity of staff and implemented policies.

Initially, under the presidency of Virginia Franganillo (a member of the Peronist women's movement), the CNM promoted ongoing interaction with women's associations, produced an equal opportunities plan for 1993-4, and established a number of programs intended to increase women's political participation. It also played an important role in the Beijing women's conference (Waylen, 2000). During this period the national Congress passed a law to combat domestic violence (passed in 1994, but not promulgated by national decree until 1996), and the President issued a national decree against sexual harassment in the public administration in 1993. Since its creation, the CNM has also developed programs related to reproductive and sexual health, and addressed reproductive rights by attempting to influence policies in various areas, including education and health. Furthermore, after the implementation of the quota law women politicians worked together to develop the first law to ever address reproductive rights in the national Congress, and to provide support on this issue to women in different provinces (Interview 7). This commitment to reproductive rights by the CNM conflicted with the views of the emerging alliance between Menem and the Catholic Church, which

aimed to stop all attempts to legalize abortion.⁴⁵ Additionally, Menem attempted to introduce a clause against abortion in the Constitutional reform of 1994. Since the CNM was heavily involved in the campaign against the Presidential attempt to include an antiabortion clause into the new Constitution, a significant battle over reproductive rights took place between Menem and Virginia Franganillo, the head of the CNM. This opposition to the President forced Franganillo to resign from the CNM in 1994. Although a group of women MP's linked with Franganillo attempted to pass a bill to address family planning in 1995, it was never debated in the Senate.

In 1995, Menem created an ad-hoc commission for follow-up to the Beijing Platform for Action in the Ministry of Foreign Affairs, and in 1996 he appointed Esther Schiavone, an staunch Menemist activist and antiabortion supporter, to head of the CNM. During Schiavone's leadership of the CNM, the executive branch of government implemented a \$14 million plan, funded by the Inter-American Development Bank, to establish the *Programa Federal de la Mujer*, which involved the creation of provincial women's offices.⁴⁶ The agenda of the CNM was enhanced by the development of a gender equality initiative, oriented mainly toward mainstreaming parity between the sexes in the work place and the reconciliation of work and family life. By executive decree in 1998, Menem implemented a new National Plan of Equality of Opportunities between men and women in the work place.

⁴⁵ In 1994 Menem for the first time publicly revealed his position against abortion in accordance with the goals of UNICEF in the protection of mothers and children (Interview 7).

⁴⁶ They are also executing the PHRD for Gender Technical Assistance Capacity Building Initiative, a project on gender in the health sector financed by the Economic Commission on Latin America and the Caribbean (*Comisión Económica para América Latina y el Caribe*) and a project to strengthen communication strategies (United Nations Development Fund for Women, UNIFEM).

The National Plan compared the performances of CEDAW and the Beijing Platform for Action, to Treaty 156 of the International Organization of Labour, which addressed the equality of treatment and opportunity between men and women workers, particularly workers with 'family responsibilities'. As noted in chapter two, Argentina has a long tradition of adopting ILO Conventions, and Menem continued this trend in 1998 by creating the Trilateral Commission of Equal Treatment and Opportunities for Women and Men in the Work Place (CTIO), under the Ministry of Work, Employment and Social Security. The goal of the plan was to increase women's opportunities in the labour market through the creation of special employment programs, such as microfinance credits for women, work training oriented towards workfare, and equal pay for equal work. It also included the regularization of domestic employment, and implementation of a national survey to determine the availability and functionality of childcare services and daycare facilities (*Jardines maternas y guarderías*). Another executive decree in 1997 had established equality of treatment for public servants and the regulation of parental leaves. Both these plans were only partially implemented, due in part to the structural constraints of the labour market.

These two decrees in 1997 and 1998 constituted the Menem government's attempt to comply (at least on selective issues) with the Beijing and CEDAW directives, and to position Argentina among the group of democratic countries that promote gender equality and the reconciliation of work and family life agenda. Yet this agenda remained ambiguous. As in other international cases, (e.g. the European directives to advance gender equality}, original 'reconciliation policies' were reformulated, "...to mean improving women's ability to combine paid work and family work in their own lives,

[...] reconciliation now served the goal of legitimating more flexible work conditions rather than changing gender relations within the family” (Stratigaki 2004, 32). In reality, the gender discourse of Menem’s government never attempted to reformulate gender relations within the family. This paradigm, “...left the existing gender division of labour within families out of consideration and thus failed to challenge stereotyped gender relations” (Stratigaki 2004, 50).

Argentine feminists were not receptive to Menem’s agenda, despite his attempts to portray a women-friendly attitude. His opposition to the reproductive rights agenda at several international conferences, and his isolation from the autonomous women’s movement resulted in the de-legitimation of the CNM as a vehicle to advance gender equality. This also explains the radicalization of the reproductive rights debate that began in the 1990’s. While Menem’s agenda explicitly excluded this topic, the Argentinean women’s movement worked together to build a reproductive rights discourse. Indeed, the unity of the Argentinean women’s movement was stronger around political rights and reproductive rights than on other women’s issues, which did not receive equal attention due to the combative scenario created by Menem’s international alliance with the Vatican and other conservative entities. The political events associated to Menem’s international positions are explained in depth in the next chapter.

An important change in the political climate occurred with the national elections of 1999, when a moderate center-left coalition (*Alianza UCR-FREPASO*) gained power during a deep economic recession. The coalition was internally fragile due to ideological differences, however, and barely unified enough to address the institutional transparency concerns that Menem’s government had been denounced for. Politically and technically

bound to introducing macroeconomic reforms to overcome the financial crisis, De La Rúa's government collapsed in December of 2001. Regarding the CNM, the women of the Alianza were also divided on how proceed a gender agenda.⁴⁷ Later, the Argentinean women's machine was progressively disempowered by successive changes of institutional location and political importance within the executive branch of government.⁴⁸ In several interviews conducted in Buenos Aires city, members of the women's movement agreed on their disappointment with the role of the CNM. For feminist activists, the CNM has proved to be a site of political struggle along different party lines (Interviews 14 and 16).

At that time, women politicians expressed their need to address a feminist perspective to women's efforts to transform gender relations. In the words of a prominent feminist MP, "The CNM must deepen actions related to change cultural patterns of gender relations. I don't see that in the [current] CNM. It is necessary to address a feminist ideology" (Interview 25). The resulting political instability at the beginning of the new century had a disempowering effect on the CNM, but more important was the state's progressive isolation from the women's movement and its original demands, as the Council's mission was to oversee gender equality compliance across all public policies.

Post-Menemism and the 2001 Financial Crisis: A New Social Agenda and its Implications for Gender Policy

⁴⁷ Carmen Storani's role as the new CNM's head (a member of the women's movement and an activist of the Radical party) was criticized by the women's movement for not being 'committed' enough to advancing a gender agenda due to her political identification with the executive. Tensions between women from the Radical party and the Prepaso also weakened the role of the CNM within the government.

⁴⁸ Actually, since its beginnings the CNM—established by a presidential decree—was part of the presidential office. According to Waylen, "...it was part of the government of the day and not as a permanent part of the state apparatus" (Waylen 2000, 779).

Due to the deep financial crisis in 2001—during which Argentina’s government proved incapable of finding a solution to the collapse of the banking system—without international support to manage the crisis and politically de-legitimated, President De La Rúa resigned. A provisional government took power, based on an agreement in the National Congress between the members of all political parties. President Eduardo Duhalde of the Peronist party was appointed, with a mandate to deal with the crisis and call national elections to elect a new democratic President. After Argentina declared the default of its economy, Duhalde devalued the peso and implemented a set of social policies oriented to reducing the serious effects of the economic situation. Though the economic meltdown provoked a deep political crisis and destabilized the political system, no alternative powers challenged the democratic regime. For the first time in its history Argentina’s democracy survived, and leaders of the diverse political parties—though discredited before the society—took responsibility for handling the crisis and steering the country toward electing another legitimate President. In 2003, Néstor Kirchner from the Peronist party was democratically elected, and he continued the same policies implemented by Duhalde during the two previous years.

As a result of these policies, the Argentinean government reformulated family policies, with the support of international institutions such as the Inter American Development Bank. Duhalde’s government, and later Kirchner’s, undertook two measures: First they attempted to strengthen the traditional model of the male breadwinner family by increasing the level of payments of the family allowances programs in the context of renewed economic growth, the devaluation of the peso and the implementation of a new macroeconomic framework oriented to increase the level of

exports. Then, due to increased poverty and the difficulty of removing the structural barriers in the labour market, the governments introduced a second measure: targeted programs of cash transfers for needy families. Women in particular are recipients of these benefits. Changes in social family policies are also the result of the increasing role of international financial institutions, as well as the diffusion of safety-net type policies, which are designed to target groups with special needs rather than address the application of universal social policies. Nevertheless, in Argentina both trends coexist, due to the limits to expanding the traditional family benefits under the labour market, and the need to deal with poverty that leaves families outside formal coverage.

Family Policy: Between the Male Breadwinner and the Need to Reduce Poverty Alleviation

In 2002, two relevant programs emerged from the economic crisis: the “*Jefes and Jefas de Hogar Plan*” (Male and Female-Headed Households Plan), and the “*Plan Familias*” (Families Plan), which pays cash benefits to the unemployed. The analysis of these programs reveals the emergence of new social goals of the Argentinean welfare state—from income maintenance to poverty alleviation—and new social tools to help achieve these goals through the adoption of targeted programs. This was a paradigm change, as it involved a de facto reformulation of the policy goals of the welfare state.

The conflict-ridden situation caused by the financial crisis of 2001 also accelerated the need to reform social assistance programs, this time with a focus on reconstituting the “family” as the primary social unit. In the words of the President of the CNM, Lucila Colombo: “The State had a crucial role to play in renewing the commitment

to the social inclusion of men and women and strengthening, preserving and assisting the family unit” (CEDAW/C/SR.660 2004, 2).

This new social agenda is also part of the Post Washington Consensus. From that perspective, the new focus of targeted benefits was not only the child or the poor, but poor families as well. In Argentina in particular, this second wave of reforms involved the development of ‘activation’ policies to reduce welfare dependency and eradicate traditional “clientelistic” relationships in social provision. This renewed ‘social investment strategy’ is also promoted by organizations such as the Inter American Development Bank (IDB) and the Economic Commission of Latin America and the Caribbean (ECLAC) in Latin America (Jenson, 2007). The new Argentinean government reorganized the pre-existing social programs into a federal network composed of three core plans: The National Food Security Plan, The National Plan for Local Development and Social Economy and the Comprehensive Family and Community Plan. In Colombo’s words: “The reconstruction of the country required a comprehensive programme aimed at achieving social inclusion and fighting poverty. One of the Government’s key strategies was to ensure that men and women could exercise their right to obtain a decent job, support their families, educate their children and care for their elderly relatives” (CEDAW/C/SR.660 2004, 2).

In terms of family policy, the two Peronist governments (Duhalde’s and Kirchner’s) developed a dualistic family policy. On one hand, the government implemented means-tested programs (e.g. *Plan Familias*), intended to provide family support in the form of cash benefits to needy families. On the other hand, as the first signs of economic recovery emerged the new government attempted to strengthen the

traditional family allowance. This system fostered a new collective agreement with trade unions, raising salaries and family benefits. The system, however, only covers formal workers.

Due to the coexistence of these two different systems—the traditional family allowance programme and the new means-tested program—the fragmentation and stratification of the system deepened. Although recent changes in family benefits imply a redefinition of traditional family policies, some typical elements of the welfare regime are preserved. Changes in family composition and the dismantling of old forms of social provision have also contributed to the reformulation of social policies. The current situation consists of a dual system of welfare provision; the old income-maintenance model, still focused primarily on the male breadwinner, and a new residual liberal component based on means-tested programs.

In the context of this redefined but ambiguous family policy, the election of President Néstor Kirchner in 2003 gave the CNM a new role and mission. It was relocated in the National Council for Social Policy Coordination, originally headed by the President's sister, Alicia Kirchner. The new President of the CNM, María Lucila Colombo, was originally an activist of SACRA, and she explicitly supported anti-abortion positions during the legislative debate on reproductive health (2000) when she was a representative in the Buenos Aires city legislature; this is further developed in chapter five. She was, however, the author of one of the two bills presented in the Legislature regarding reproductive rights and health. She ensured her bill was distinct from the other, which was supported by the feminist politicians represented in the legislature and the feminists within the women's movement. As a left-catholic activist,

her position is closer to the concept of family planning, and rejects abortion. She belonged to the *Nueva Dirigencia Party*, created by the former Minister of Interior, Gustavo Béliz, an activist catholic with strong links to the official church.

The new mission of the CNM was part of the new social agenda, which addressed the need to strengthen the role of the family in a context of economic and social fragmentation, while reformulating traditional gender roles. Rather than focusing on individual actors (child, woman, poor, etc.) the new approach attempted to include them all in a comprehensive and integrated family perspective. The Argentine government 's use of a World Bank's loan as part of the so-called Post Washington Consensus, as well as a poverty reduction agenda, are indicators of the renewed focus on families. The "PROFAM – *Argentina: Family Strengthening and Social Capital Promotion Project*" was a distinct project funded by the World Bank for 5 million American dollars, and executed through the CNM. According to the World Bank, the CNM was selected to become the executor of the programme because it is, "...an autonomous organization, which seeks to decentralize its community interventions to the grassroots level, maintaining only the administrative functions and those responsibilities related to the articulation of social policy formulation at the central level". It also adopts a "social capital" approach, which assumes that communities with higher levels of social capital are more likely to organize, define, and pursue common goals.

The social capital approach emphasises the need of partnership at the local level, stating, "The first strategic choice was to build on the existence of community social capital rather than existing centralized government institutions" (PROFAM 2001, 5). The emphasis on innovation and learning is now said to, "...provide opportunities to learn

from the implementation of a community-based perspective by CNM with the participation of beneficiaries...will also provide important lessons on whether and under what conditions empowered community groups can play a central role in the promotion of equitable gender and family roles and anti-violence interventions” (PROFAM 2001, 5). The *Programa Equidad* is the principal activity of PROFAM. It is a demand-driven grant programme for the development of small sub-projects, which promote and strengthen the capacity of families to actively function in their community. This programme targets the poor communities in Argentina where, “...domestic violence against women and children, teen pregnancy, juvenile delinquency, and substance and alcohol abuse are higher. It will also target poor areas where there is a lack of access to reproductive health information and options, including childcare” (PROFAM 2001, 21).

Along with the renewed focus on the family as the primary social unit, and changing gender roles, the Argentinean government also reoriented its international position on reproductive rights. Through the representation of the UN Ambassador Juliana Di Tulio, Argentina maintained its positions in favour of the reproductive rights of women according to the Beijing Platform for Action and CEDAW. It also took a more active role in the regional Latin American Conferences of Women by becoming the speaker for the Grupo Río⁴⁹ in the 49th session of the UN Commission on the legal and social condition of women in the world. In this context, active participation of the

⁴⁹ Rio group: representatives of all Latin American Countries

women's movement from Latin America was important to convincing national governments to ratify their commitment to Beijing 1995.⁵⁰

The '*Consenso de Mexico*', approved in June of 2004 during the 9th Regional Conference held in Mexico City, also constitutes a landmark in the advancement of women in Argentina, as for the first time the new Argentinean government agreed to all elements without reservation, including reproductive rights and the optional protocol of CEDAW.⁵¹ The new government had also strengthened the regional integration of the Mercado Común del Sur (MERCOSUR), and femocrats of the southern cone countries and Chile held regular meetings in the context of MERCOSUR.⁵² Although there is no coordinated action among women legislators of the different countries, they nevertheless formed part of the Parliament of MERCOSUR, and exchanged ideas with other women congressional representatives (Interview 24).

In spite of these changes, the new government has followed a dual gender policy. On one hand, the CNM has been downgraded and has totally lost its original mainstreaming purpose. Yet, Colombo's policy has addressed several of the women's issues brought forward as part of the international and regional gender agenda. The CNM was actively involved in issues such as domestic violence and the ECLAC recommendations on the value of unpaid women's work. Although Colombo identified

⁵⁰ All the countries opposed to the official position of the US regarding the Beijing Platform for action. In this regard, the US government understood that 'Beijing might induce governments to legalize abortion'.

⁵¹ Thanks to the pressure of the women's movement and the initiative of some women MP's, Argentina has recently ratified the optional protocol in the National Congress. The main argument of the opposition to the protocol is that the protocol affects national sovereignty and 'opens the door' to abortion.

⁵² MERCOSUR is the economic block comprised of Argentina, Brazil, Paraguay and Uruguay. Chile is an associated member state.

herself as part of the women's movement, she has kept her distance from the most feminist organizations. As discussed in previous sections, the division within the women's movement continues to exist.

The lack of a feminist perspective in the CNM is crucial to understanding the limits in advancing a comprehensive gender equality agenda in the national bureaucracy. Several women's activists pointed out that the Ministry of Health is the only government entity in which the implementation of a gender equity agenda is clear. Most agreed that other institutions, like the National Women's Council, are 'empty' organizations with respect to the advancement of women's affairs (from several interviews conducted with MP's and women activists). Nevertheless, women activists have been invited by the women representative to the UN, Ambassador Juliana Di Tulio, to participate in the *Foro de las organizaciones de la sociedad civil*, a regular meeting between women's organizations and the Women's office in the Ministry of Foreign Affairs. According to government officials, this *Foro* was created to provide a 'space' to articulate the demands of civil society organizations (Interview 19). While women's activists saw this as a new opportunity to be heard, a few of them (those most removed from the party system) felt there was a risk of being 'captured' by the state (Interview 16). In addition, since its creation under Menem's government, the ad-hoc commission to follow-up on Beijing has been located in the Ministry of Foreign Affairs, but the CNM is still the women's sector that is accountable to the UN. This institutional dispersion, and the lack of coordination of the different women's offices, have negatively affected the advancement of a coherent gender equality agenda.

Women have gained political representation, and this has been significant for moving ahead on some gender issues. It has proven difficult, however, for women to penetrate the bureaucratic structure of the state. Thus, uneven state support of the gender agenda, weaknesses of the 'femocrats' divided along party lines, and the isolation of the women's organizations have predominated in recent years.

Assessing the Consequences of Neo-liberal Restructuring on Social and Biological Reproduction: Childcare and Reproductive Health Policies

Neo-liberal restructuring has challenged the foundation of the conservative gender regime. The predominant male breadwinner family form has been destabilized, altering the link between social and biological reproduction. During the 1990's, Menem attempted to redefine traditional family arrangements by pursuing a technocratic agenda of policies oriented to private solutions on childcare, while simultaneously banning any attempts to advance reproductive rights, since poorer families are more negatively affected by the lack of services. Neither the creation of the CTIO in the Ministry of Work, nor the decrees on parity between men and women in the workplace issued by Menem during the 1990's, played an significant role in the government's agenda. Furthermore, the women's movement felt that these policies did not reflect the interests of the majority of women, particularly when Menem adopted them without involving relevant members of women's groups.

In 2000, the CTIO, now headed by Olga Hammar, advanced more detailed discourses on the recognition of support for working mothers, in the form of childcare services and the sharing of family responsibilities between women and men. These discourses were also reflected in the CNM by Colombo's appointment, as they are clearly

related to peronist policies toward protecting working mothers in the general context of trade unions. Some legislation and programs in the public sector were implemented in accordance with anti-discrimination policies in the workplace. Despite femocrats' discourses, policies that attempted to expand women's opportunities such as family support (i.e. childcare) were not addressed through explicit public policies.

Two social policy areas exposed the critical gap between social and biological reproduction: childcare and reproductive health.

Childcare and Parental Leaves

Although pre-school education is understood to be part of the education process, and not related to providing childcare services to families and working women, the Argentinean policy on education is an important aspect of the welfare and gender regime, as the pre-school system is one of the main sources of childcare.

Education constitutes an important example of the universalistic aspirations of the welfare regime in Argentina. Public education was part of the project of the liberal elites who set up the foundation of the modern national state (*Generación del 80*), and the system has expanded as a symbol of the social mobility of the middle classes. Public education has been an important instrument for women's advancement in the country. In 1910, important changes were made to the original Education Law (Law 1420), which was passed in 1884 during the presidency of Julio Argentino Roca. (*Ley 1420/1884*). It was the first free, universal and secular education law in Argentina. The changes to it were egalitarian in spirit, essentially intended to eliminate formal differences between the Argentine born and immigrants, or between women and men. The law attempted to

include immigrants into the public education system. To immigrants, education was a symbol of social mobility, and a chance to improve their material living conditions. As an example of middle-class values, the university system was associated with the aspirations of “national progress”, and university reform of 1918 instituted the basis for including the middle-class in post-secondary education. Since then, public universities have been free and universal at the undergraduate level, which consists of an average of five years of post-secondary education. Some analysts interpret this as a perverse transfer of costs, since payment for this university education comes from all taxpayers, including those who do not have enough resources to attend university. In addition, compulsory education (elementary and, recently, high school) is free and universal, and public schools coexist with private institutions.

As in other corporative welfare regimes, and following the Convention of Children Rights of 1989, pre-school education in Argentina is understood to be in ‘the best interest of the child’ and, as such, not primarily a response to the needs of working parents. Pre-school services are the responsibility of the Ministry of Education and are regulated according to the Federal Education Law, which provides both public and private education, though pre-school is provided at the provincial level. Private and public pre-school systems are the main source of childcare for families, even though they are only in operation half of the day in the public sector; there are more options in the private sector. Public kindergarten for children between the ages of three and five is free, and all taxpayers fund it. It is supplemented by full-time daycare centers (*Jardines maternas*), which serve children from three months to two years old. Yet the

availability in the public sector system has become very limited, as the demand for spaces has increased beyond the capacity of the system to provide childcare for all.

In Buenos Aires city there are 13 full-time daycare centers originally regulated by the government that were created to meet the demand of public sector workers in the Federal and Municipal Governments. In addition to these formally regulated centers, many more community-based daycare centers (70) are subsidized by the Buenos Aires city government to serve needy families and working women. These centers are not subject to the same regulations and monitoring as the public and private pre-school systems, since they emerged as an emergency service to respond to working women's needs, and to provide supplementary meals for poor children.⁵³

The inclusion of women in the labour market has added pressure to the existing public services. It has also contributed to the expansion of private services, and these have not been subject to government regulation, with sometimes serious consequences in terms of the quality and safety of the services provided. The private sector has grown exponentially during the last 15 years, due to the crisis of the public sector and the emergence of different options. The private sector also reacts to and serves a variety of different demands. Some meet the needs of middle-class families by charging 'affordable' fees, while other more expensive schools provide full services, including such programs as bilingual education from the age of two.

Domestic workers (women working in private households) and intra-family informal arrangements are still two of the main sources of childcare, the latter being

⁵³ Data on public and subsidized childcare services in Buenos Aires city has been provided by public officials during informal interviews conducted in Buenos Aires in 2005.

particularly important to low and middle-low income families. As pointed out earlier in this chapter, women's difficulty in finding affordable childcare, particularly among the poor, is one of the most relevant determinants of the intermittent character of women's participation in the labour market. In addition, maternity leaves have remained unchanged. As discussed in chapter two, Argentina has followed the directives of ILO by adopting three months paid maternity leave. Recently, however, several bills have been debated in the National Congress to extend paid leaves for fathers to two weeks—paternal leave is currently two paid labour days in order to extend the overall period beyond 90 days—of paid maternity leaves for multiple births and premature babies. Other bills propose giving maternity leave to adopting mothers, who currently do not have that right. Although several bills were passed in the Chamber of Deputies, the Senate did not pass the law, due to the opposition of the ruling party (Clarín 17/04/08). Limited childcare and parental leaves have added pressure to the old gender regime, being that working mothers—especially poor women—are more affected by this situation. In addition, the lack of reproductive rights has a particularly negative effect on poor women. As introduced in chapter one, the fragmentation of the health sector produced gender and class stratification, with consequences on women's reproductive health.

Women's Health and Reproductive Rights

Many studies of the health sector in Argentina conclude that the urban alliance that emerged in the 1940's with the Peronist movement helped to shape the dualistic configuration of the health insurance system (Alonso 1996). On one hand, the commitment to a free and equitable universal system of health provision, oriented to

citizens, led to the replacement of the old 'social charity' based system with the progressive initiative of public hospitals.⁵⁴ The hospitals provided services for low-income groups, mostly for those outside the formal urban economy, and played an important role in human resources training within the health sector.

On the other hand, a social security system oriented toward the workers was also implemented (Danani 1998). This had much in common with the conservative type of welfare regime, typical of the German model (Esping-Andersen 1990). In the Argentinean case, insurance funds were a combination of more than 300 separate federal/provincial, occupational and company-based funds. This sub-system of "obras sociales" became the main system of the health sector, and it produced the same heterogeneity as in the economic structure. As Huber notes, "Peron's legacy was a social security system with very wide coverage for pensions and health care, but great heterogeneity and inequality, and with significant influence by the unions in the administration of welfare funds, the *obras sociales*, whose main responsibility was the management of health care schemes" (1996, 151). The system offered a high level of formal coverage, during a time when the labour market enjoyed almost full employment (in the formal sector) and a high degree of commodification of social relations.

The health system, however, remained very complex, with many different public funds coexisting with public health programs at the national and provincial levels, which resulted in unequal access to care, even for those who were covered. "Given the

⁵⁴ The Argentina's health insurance system has its roots in the late nineteenth century. The first hospitals in Argentina, particularly located in the city of Buenos Aires were the result of the first European communities settled in Argentina by the end of the XIX Century. Even today a cluster of community based hospitals enjoy a strong reputation among the private sector, such as the British, German, Spanish, French, Italian and others community based hospitals.

fragmentation of the social insurance sector, most funds were too small to provide services, and so they contracted out to private clinics and hospitals, creating a large private provision sector” (Barrientos and Lloyd-Sherlock 2000, 418). This social insurance system fostered chaotic and unaccountable processes of contracting and sub-contracting, all without state regulation. The problems of inefficiency became more acute in the 1980’s, during the country’s growing financial crisis and its effect on the labour market, particularly on domestic industry and wage earners.⁵⁵

The public sub-system provides free health care to the entire population, through a network of public hospitals and health centers. It is supervised by health ministries on three levels (national, state, and municipal) and serves about 30 percent of the population, largely from low-income groups. Public sector efficiency has, however, been adversely affected by the expansion of the private system, and the weak regulatory capacity of the federal state. In particular, the number of patients in the public sector has risen, overwhelming the state’s capacity to respond with high quality services. This has reduced the efficiency of the health system overall⁵⁶.

The position of women in such highly stratified and fragmented system is noteworthy.⁵⁷ Women workers are less likely to be covered by the *obras sociales* system,

⁵⁵ Since 1990 a considerable amount of state reform has been concentrated in the health sector, focused on allowing competition in the health system and reducing the power of *obras sociales*.

⁵⁶ In 1996 the World Bank made a loan to help the hospitals to become self-managed entities (*hospitales de autogestión*), with the goal of increasing the system’s efficiency.

⁵⁷ Gender and class differentials are related to the ongoing fragmentation of the system. In 1991 only 63% of the population was covered by the *obras sociales* system while in 2001 the coverage was 51.9%. In the case of women the reduction was similar: from 64.8% to 53.9%. Yet, the coverage gap is notorious regarding social status: 87% of the wealthiest have some form of health insurance (*obras sociales* and/or private) while only 18% of the poorest are covered by the social security system (CEDES/BID 2004).

due to their precarious position in the labour market; they largely have part-time or informal jobs without social insurance. Women's access to health care through the health insurance funds (*obras sociales system*) was therefore mainly through their role as "wives" and "daughters" (welfare dependants of the male breadwinner). The privatization of health care through the development of private insurance funds could entail a special role for women as "patients-consumers". In addition, women have been targets of the "poverty reduction strategies" of the World Bank, such as nutrition and other maternal health programs. A relevant example of the gender implications of private vs. public access to health care is the reproductive health policy, which has acquired a prominent status in the new social agenda, and is the focus of this thesis. This policy not only recognizes differences between men and women in terms of their sexual and reproductive health rights, but also seeks to address differences among women due to their degree of access to contraception mechanisms.

Both systems—education and health—were designed on a universal basis, but due to increasing inequality in the access to welfare coverage this universalism has become an aspiration⁵⁸. While public investment in education has been more important than other social policies, and the middle-classes have used the public system widely, the fragmentation of the health sector is deeper, since this policy is directly tied to the labour market.

Conclusions

⁵⁸ Barrientos (2004) has remarked this as a general situation in Latin American welfare regimes.

The democratization process, which began in 1983 provided Argentinean women with opportunities to alter the structure of their representation through several institutional changes. These changes affected the electoral regime (women's quota) and involved the creation of women's machineries at the national and provincial levels of government. The formation of a comprehensive gender agenda has, however, been uneven, affected by the political instability of Argentinean democracy, the fragmentation of the women's movement and the inflexibility of the bureaucratic apparatus. Yet opportunities provided through the international context have contributed to increase *domestic* focus on gender based programs and policies. Despite these advancements in the political democratization process of the 1980's, the neo-liberal policies implemented in the 1990's had a negative effect on social citizenship, particularly on women.

This chapter has argued that the old gender regime began to destabilize due to the adoption of neo-liberal economic policies, and the subsequent impact on gender relations. In the process, the chapter highlighted the main components of the welfare mix, and the recent changes as a consequence of SAP's. In particular, it attempted to gender the analysis of the welfare mix in Argentina, in order to convey the relationship between social and biological reproduction. On one hand, changes in family composition due to impoverishment had gendered effects, most notably the emergence of women as heads of households, and rising demand for childcare facilities when women had to work outside the home. Combined with the retrenchment of family support as a consequence of fiscal restructuring, this situation involved the movement from a general support model (income maintenance through family allowances) toward safety nets in the form of cash benefits for the needy. Women of low and low-middle incomes became recipients of cash

transfers, revealing a pattern of inclusion in the public sphere that had implications on the nature of the gender regime. Overall, women's inclusion the workforce has had paradoxical impacts, since women—particularly those from the low and middle-low income strata—were forced into the labour market at the cost of increasing gender inequality, due to their increased responsibilities as providers of both family and income support.

The health sector has been subjected to reform. Increasing poverty and the crisis of the old system of *obras sociales* raised the demand for public services. The class effects of neo-liberal reforms increased the negative consequences for women's status with respect to their access to health services, particularly to reproductive and maternal health care. Paradoxically, as will be developed in subsequent chapters, the reproductive needs of the poor were a 'legitimate' reason for the women's movement to advance this issue in the public agenda. Thus, women's discourses were redefined under a common critique against neo-liberal policies. Two main claims were important within women's political activism: the need to redefine the political opportunity structure introducing the quota system, thus allowing more women to access politics; and the reproductive rights debate, empowered by the international developments on policies and discourses.

As suggested in chapter one, focusing on the national scale of women's activity 'inside' the state does not provide complete understanding of institutionalized feminist activity. In Argentina especially, women's networking actions in different political arenas (bureaucracy and legislature, and some favouring links with the women's movement outside formal political institutions) was important to advance a gender equality agenda, particularly as it related to reproductive rights. Moreover, just as recent women's

struggles have extended beyond national borders, the Argentinean women's movement also spread outside the country establishing links with international counterparts. Some opportunities for domestic policy change were derived from changes in the international arena, in particular those related to women's rights and reproductive health and rights. Indeed, the creation of the CNM was the result of the international trends to build women's policy instruments to advance women's rights.

It is said that the adoption of a comprehensive gender agenda has been effectively limited over the past 20 years. Yet, a political environment more receptive to women's demands has come about, notably through the development of a sophisticated gendered discourse within the women's movement. While the fragmentation of the women's movement makes it difficult to advance a gender agenda, state opposition to reproductive rights during the 1990's, and the opportunities provided by the emergence of the international gender regime, promoted unity among women's groups on several issues. This unity contributed to a shift in the Argentinean gender regime, and it was crucial to the advancement of women's issues in the legislative arena; in particular the battle that Argentine MP's waged in the later years, and which is still is a matter of debate in the National Congress, as will be analyzed in chapter five. In addition to transnationalization scales—international and regional—that have been much studied in current literature on the analysis of the contemporary women's movement, there are two other strategies that the movement pursued in Argentina: transversality and double activism. The relative success of women activists in the legislative arena contrasts with the limits that women face to access the bureaucratic structure of the national state in order to expand a gender equality agenda. This not only relates to the multiplicity of goals and agendas within the

state's apparatus—as gender is a residual category in policy priorities—but also reveals the inability of the women's movement to overcome its traditional fragmentation. As a result, the CNM has moved from a 'technocratic' style during the 1990's under Menem's government, to a progressive disempowerment favouring the political instability of a fragile institutional democracy.

While Argentina has ratified the international conventions to ensure women's rights in the larger context of democratization, the reaction to this agenda within national borders, as demonstrated by the explicit adoption of policies and programs, was mitigated by the different political projects of the democratic government since 1983. Thus, the Argentinean gender agenda of the 1990's was shaped by the neo-liberal project that predominated in that decade, which re-interpreted the gender equality agenda according to the neo-liberal paradigm. The new social agenda has addressed other elements of international gender discourse, with gender equality included in a 'familial discourse' on the need to reconstitute the family and adjust changing gender roles. In fact, changes in gender relations have been more due to the effects of welfare retrenchment policies on families and women, than the implementation of a state gender equality agenda. In addition, the new government agenda is pragmatically more concerned with developing social programs oriented to women (women's policies) than with altering gender relations through mainstreaming (gender policies).

The gendered effects of economic reforms implemented during the 1990's was important for organizing and building a women's common discourse against neo-liberal policies, especially in the context of Latin America. This process was also facilitated by democratization that took place in other countries of the region. New global opportunities

emerged, favored by the gender equality regime that developed in the context of the UN system of women's rights. This new global gender equality regime was important in addressing women's issues in Latin America. In Argentina, for example, the creation of the National women's instrument helped start an initiative to advance reproductive rights, particularly after the Cairo Conference held in 1994.

Since advancement of the gender equality agenda on the national scale was difficult, women 'jumped' scales to pursue better opportunities to raise women's claims. The role of the women's movement in providing information to UN officials has been important as a source of monitoring, and thus the contribution of the different actors to the framing of the debate at different political scales is central to understanding the formation of a gender agenda. Activities and strategies went beyond the narrowly defined conventional political arena. In this regard, the emergent global gender equality discourse, and the multiplication of scales of activism, provided some unity around topics that are relevant in the Argentinean agenda, such as reproductive rights and domestic violence. This development is discussed in the next chapter.

**Chart 2: The gender regime since democratization - Democratic presidencies and State's politics and policies
Argentina 1983 - present**

Period	Government/Party/Ideology	State's role and social policy	Gender regime and gender policies
1983 - 1989	President Raul Alfonsín Union Civica Radical (UCR) Social Liberal	Renaissance of democratic politics/Human rights Welfare State crisis	Abolition of authoritarian decrees on the prohibition of contraception Adoption of CEDAW 1985
1989 - 1999	President Carlos Menem (Reelected in 1995) Justicialista Party Peronist (Economic neo-liberalism and social conservatism)	State's restructuring privatization, de-regulation, economic liberalization welfare retrenchment and restructuring Convertibility currency board (American dollar/Argentine peso parity)	Global gender equality norms Cairo 1994 and Beijing 1995 Argentina's reservations Creation of women's national council Work parity initiatives Women's legislative quota 1991 Reproductive rights (Controversy)
1999 - 2001	President Fernando De La Rúa Resigned in 2001 (financial crisis) ALIANZA UCR - FREPASO Center-left-right coalition Social liberal	Economic recession since 1998 External debt crisis Conflict with IMF on bailout	Continuation of equality policies De-legitimation of the CNM Sub-national actions posed challenges to the conservative regime
2001 - 2003 *	President Eduardo Duhalde Transitional government Appointed by the National Congress Peronist (populist)	Economic and social crisis Devaluation of the peso Conflict with IMF on bailout Poverty reduction strategies	Dual family policy Adoption of new assistant policies to poor families and female head of households Reproductive health and responsible parenthood law Departure from the old conservative gender regime
2003 - present	President Nestor Kirchner 2007 - present President Cristina Kirchner Frente para la Victoria Party Peronist (populist)	Rising prices of commodities Economic growth Increasing state's intervention Poverty reduction strategies	Neo-Familialism and dual gender policies Implementation of Reproductive Health Law with World Bank Loan Reproductive rights (public controversy on abortion)

* In 2001 between the Presidencies of De La Rúa and Duhalde there were three provisional presidents: Ramón Puerta, Adolfo Rodríguez Saá, and Eduardo Caamaño.

Chapter Four

The Global Gender Regime and the Transnationalization of Reproductive Rights: Women Jumping Scales

*Our participation in International Conferences helped us a lot to diffuse our work about reproductive rights and to gain attention from legislators and the national media. We greatly value our participation in the United Nations. For us the 'hidden' reports were very important to expose the critical situation of reproductive rights in Argentina.*⁵⁹

Introduction

The previous chapter presented the analysis of the domestic political opportunity structure, and women's attempts to define a gender agenda. As this thesis argues, however, changes in the Argentinean gender regime—particularly in reproductive policies—were facilitated by the emergence of the global gender equality regime, and the transnationalization of women's organizing. With the advent of globalization and transnationalization, the role of international agencies in addressing women's equality increased, especially through the United Nations (UN) system and its global gender equality regime. Thus, as part of the new political opportunity structure to frame women's demands, the gender arenas shaped in the international and regional (Latin America) scales and the emerging global gender regime must be considered.

UN Conferences have operated as sites of discursive struggle, where the transnational women's movement has created solidarity and frame shared understanding of women's issues, and advocated for the reformulation of gender relations and

⁵⁹ An activist of an Argentine women's group focused on reproductive rights (Interview 18)

improvement of women's status (Friedman 2003; Desai 2005). New international norms intended to achieve gender equality are not obligatory for members' states, however. Adherence to UN resolutions is voluntary, but, as is argued in this chapter, the resolutions often cause a sense of moral obligation, which, along with public exposure of the state representatives in international public forums, can create incentives to adopt international policy recommendations. In addition, the increasing number of norms and institutions as sites of discursive struggle empowered the Argentinean women's movement, and contributed to the expansion and strengthening of women's networks. Although this process has been subject to contradiction and tension, participation of national actors in the international arena has contributed to the process of global formation of gendered policies (Kardam 2004; Zwingel 2005). The international and regional scales became important arenas for framing a new concept of reproductive rights. This has had an impact on national and sub-national discourses, as this chapter will show.

This chapter outlines the main features of the global gender regime and the transnationalization of Latin American women's organizing that have influenced the Argentine women's movement, particularly in terms of building/framing discourses on reproductive rights. The chapter also highlights the role of the Cairo Conference (1994) in re-shaping the content of the agenda on women's reproductive rights, and framing the boundaries of the universe of political discourse for Argentina's debates. In addition, the chapter describes the involvement of the Argentinean State on the international level, and defines the role that the Argentinean State played on the international scale when it supported the conservative coalition that opposed the global advancement of reproductive rights. These international developments had an impact on domestic politics, and on

policies regarding reproductive rights. Thus, the chapter discusses the 1990's, and Argentinean representatives' roles in international conferences held in Cairo (1994) and Beijing (1995) during the Menem government. It also examines the changes in the official positions when new governments took office after 1999, and the re-positioning of the actors within the national scale as a result of these transnational debates.

After presenting the global and regional political opportunity structures, the second part of this chapter considers Argentinean women's activism beyond national borders, in particular its integration with the UN system. The interaction between Argentinean women's activists and the international gender regime is analyzed through the 'hidden reports' submitted to UN officials, and the role they played in monitoring the State's performance in complying with CEDAW's rules and conventions. These constitute an example of what Tarrow calls upward scale shift; when actors move to higher scales (e.g. international) looking for opportunities to advance their interests.

With the development of a gender equality agenda, one topic in particular captured the attention of women's advocates, Argentinean representatives and UN officials: reproductive rights and abortion. The centrality of this issue was evolving, as debate at different scales shaped the discourse of the different actors involved. The UN system of women's rights was an important arena, as it enabled Argentinean women to jump scales in order to push the national government to implement reforms on reproductive rights. The analysis of the Argentinean women's movement is thus positioned in national and wider contexts, in the emergence of the global gender regime, and in the monitoring mechanisms established to follow-up the state's accomplishments on advancing gender equality.

The Global Gender Equality Regime: Opportunities for Latin American and Argentinean Women's Organizing

The global gender regime is composed of a set of formal principles, norms, legal rules and monitoring mechanisms to ensure the compliance of state members; and the development of shared understandings that form a gender equality discourse (Kardam 2004). CEDAW is an important legal instrument for managing gender equality. Its rules are based on a set of principles and norms, and accompanied by decision-making procedures or monitoring mechanisms to oversee compliance. Yet national states are not simply executors of this new international framework, as international conventions like CEDAW do not force them to comply with the regulations. Ratification of the treaties is voluntary, and this can create tensions between the emergent international legal framework, the behavior of national governments, and the demands of internal forces that want the norms adopted in their country.

One of the instruments that CEDAW has adopted is a monitoring process, which includes the requirement to submit national reports every five years. The reports must list actions that the member states, "...have taken to eliminate discrimination against women and specify factors and difficulties met in fulfilling their treaty obligations" (Kardam 2004, 90). The reports are reviewed in public meetings, where government representatives can be questioned. Although this monitoring process does not result in the imposition of sanctions, mandatory participation in the public hearings can put moral pressure on the representatives of non-compliant governments when exposed to international scrutiny. In addition, national women's organizations have the right to present alternative reports. These 'hidden' or 'shadow' reports play an important role, by

providing alternative sources of information for the UN officials who question the national representatives in the public hearings.

Part of the monitoring process is the Optional Protocol to the Convention, which provides access to justice for women at the international level (this process has been very controversial in Argentina). The optional protocol allows women who have been denied access to justice at the national level to have their claims reviewed by a committee of independent experts who monitor compliance with the Convention. Any national remedies for each case must have been exhausted, however, before the optional protocol may be invoked. Ratification of the Optional Protocol—agreeing to be legally bound by it—is also a key element of follow-up to the commitments that the governments made at the Fourth World Conference on Women in Beijing. The committee may not base its recommendations on behalf of victims only on reports submitted by the member states. The Optional Protocol provides a forum for complaint, and an avenue for women to receive justice for breaches of their human rights. It allows the investigation of substantial abuses of women's human rights by an international body of experts. It can also launch an inquiry into grave or systematic violations on its own initiative. The inquiry procedure also allows for the investigation of widespread violations when individuals or groups may be unable to make complaints for practical reasons, or for fear of reprisals. It also gives the committee an opportunity to make recommendations regarding the structural causes of violations, and allows them to address a broad range of issues in a single country.

The Optional Protocol is a distinct treaty that is available for signature and ratification to states that already participate in the Convention. It does not, however,

create any new substantive rights; it simply allows individuals to have a complaint heard by the treaty body in the event they are not satisfied with the remedy provided at the national level—just as was the case in the first Optional Protocol to the International Covenant on Civil and Political Rights. There are several ways the Optional Protocol to CEDAW can be helpful to women: by developing progressive interpretations of discrimination standards that can inform national courts and lawmakers, as well as other international human rights bodies; by providing detailed guidance to governments that are seeking to meet their obligations under the Convention; by creating public awareness of human rights standards prohibiting discrimination against women; and by building awareness among women of their rights as claimants. The Optional Protocol to CEDAW was adopted by the UN General Assembly in 1999, but signed only by 37 states parties, far fewer than the 165 state members of the UN that ratified the Convention.

A critical element of the international gender regime is the aspect of shared understandings and common values that give rise to a ‘gender equality discourse’. The manner in which international agencies have interpreted women’s needs, however, has not been uniform, and definition of gender issues varies according to each agency’s goals. In her study of three international donor agencies, Kardam concluded that the World Bank’s goals are largely shaped by financial standards, oriented, “...to promote economic growth for developing countries (with reliance on market mechanisms)” (Kardam 1997, 48). For example, the World Bank has adopted the issue of reproductive rights as they have come to be understood (necessary to decrease birth rates and to reduce fertility) because these issues are seen as obstacles to development in the South. In recent years, the World Bank has developed ‘poverty reduction’ as a policy paradigm, and this has

shifted its focus to reducing poverty by providing targeted social assistance and health services.⁶⁰

Women's organizations have also played an important role in the development of the international regime, through two decades of advocacy and network building. The UN system constituted an important site for the coming together of governmental and non-governmental organizations to define a global gender agenda. Over successive international conferences, participating women's organizations also became more technically capable and politically astute. This alliance between the various leaderships of the global women's movement and the UN system is considered central to the codification of gender equality norms, and to the development of collective understandings of such norms (Kardam 2004, 90-91).

In these international conferences women's organizations have worked to empower women to achieve fundamental changes in gender relations, and the political, economic and social structures that underpin them. Alvarez argues that the plurality and diversity of feminist practices also contributed to a redefinition of the feminist agenda for social change (Alvarez 1999). The emergent global gender regime has increased pressure on national and local states to move forward with a gender equality agenda, and to implement gender-focused programs—where the technical assistance and participation of women's organizations has become a major requirement for accessing financial assistance from multilateral agencies (Kardam 1991; Alvarez 1999). Participants were forced to frame their demands in accordance with the predominant discourses and goals

⁶⁰ This is particularly relevant in the Argentinean case as the recent Sexual Health and Responsible Procreation Program, funded by the World Bank, fits within the broader agenda of poverty alleviation adopted after the severe fiscal crisis of 2001.

of existing international institutions. Nevertheless, they also contributed to a reshaping of the pre-existing institutional structure (Kardam 2004).

While the UN' system comprises the political opportunity structure where women's movements came together, the reshaping of the gender agenda, and the organized participation of non-government social organizations in the official conference, was achieved over two decades of advocacy and network building. Women's organized action in successive international conferences also contributed to building partnerships with other social movements—particularly the environmental social movement—and to providing new technical skills to conference participants. It was also argued that this alliance between the leaderships of the global women's movement, and associated NGO's, and the UN system has become central to codifying the gender equality norms and fostering a collective understanding of such norms (Kardam 2004, 90-91).

The Cairo Conference of 1994, where a new concept of reproductive rights was advanced in the international arena, is of particular interest for this thesis. The debate at this conference had important ramifications for the Argentinean domestic political arena. Moreover, the Argentine state joined the conservative opposition headed by the Holy See to oppose reproductive rights. These struggles will be discussed in greater detail in chapter six of this thesis.

Reproductive Health and Rights in the International Arena

Two international perspectives have influenced developments in reproductive health and reproductive rights in the international arena since the 1990's, which confirms their transnational character. One emphasizes women's rights as human rights with a gender

equality discourse, where health constitutes an important dimension of women's rights. The other is shaped by the economic rationality that has dominated population policies. In particular, several multilateral institutions have adopted a gender equality discourse in defining the policy goals.

The adoption of a health perspective on reproductive policies, and the globalization of health sector reforms, contributed to the reframing of reproduction in a new way. Argentina, in particular, followed this path of modernization in the 1990's. In addition, the effects of structural adjustment policies during the 1990's highlighted the conditions of women living with health issues, and the need for special programs targeting women in poverty. In the Latin American context, the Summit of the Americas in 1994 (*Cumbre de las Américas*) and the Pan-American Organization of Health recommended to their member countries that the international obligation of promoting health reforms should include six principles: equity, efficiency, effectiveness, quality, sustainability and social participation. It was also argued that reproductive health had a "privileged" position in the context of health sector reform (CEDES 2004).

In addition to health, the emergence of a global gender equality regime contributed to redefining reproduction as a woman's right. During the so-called 'second wave' of reforms in Latin America, path-shifting changes were—and still are—achieved through a process of engagement between international actors and local community-based organizations, which make the national state, a link in the 'chain' of international diffusion of new ideas. An important dimension to the transnational flow of ideas is the emphasis on gender equality and women's rights. Organizations like the UN, and international conventions like CEDAW are involved in providing directives for social

policy formulation. The building of networks of feminist experts in different political spaces, and the flow of ideas among them, is highlighted in this thesis.

Ideas shaped by economic thinking provide the second perspective on women in a development context. In this regard, the 'gender equality discourse' was mainstreamed, and then subsequently adopted for and by donor agencies such as the World Bank, the UN (and other international foundations), the global women's movement and the national member states. The manner in which international agencies have interpreted women's needs, however, has not been uniform, and how gender issues are defined differs according to each agency's goal. In her research on three international donor agencies, Kardam has identified the World Bank's goals as, "...to increase the profitability as a financial institution and to promote economic growth for developing countries (with reliance on the market mechanisms)" (Kardam 1997, 48). For example, the World Bank adopted the need to ensure reproductive rights (i.e. decrease birth rates and educate women in order to reduce fertility) because it considered rapid population growth an obstacle to development. More recently, the World Bank developed a paradigm of poverty reduction, and the focus has shifted to reducing poverty through targeted social assistance and health services.⁶¹ This is particularly relevant to the Argentinean case, as

⁶¹ Two sorts of critiques however have emerged from the implementation of predominantly economic views of population policies. On the one hand, there is the feminist critique of abuses committed in third world countries through the use of pharmaceuticals not approved in the producers' countries. In addition, there are the cases of forced abortions and sterilization as part of population growth control. On the other hand, the implementation of 'vertical' programs of contraception distribution was put into question due to the need to take into account the context of women's lives. In opposition with traditional views on family-planning based on contraceptive distribution, it is argued that the context of poverty and marginalization increase the incentives for multi-parenthood. Concerns with environmental degradation and deterioration of people's lives

the World Bank primarily funds its family-planning programme approved in 2003, and this funding was critical to the passage of the bill in the National Congress and, more importantly, the Senate.

Despite tensions and contradictions, the two international perspectives and transnational arenas produced an important opening in the international political opportunity structure. In the context of the UN system, the discursive struggle took place at the 1994 Cairo Conference. There is no doubt that the international site where women's action occurred contributed to redefining the paradigm on population policies, and produced a shift toward women's sexuality and health recognition. The ideas debated in Cairo contributed to shaping Argentinean discourse on reproductive rights, providing discursive elements to the women's movement. In addition, the Argentinean State actively engaged in the alliances, which formed to oppose the advancement of women's reproductive rights on the global scale. This is particularly relevant for the analysis of the Argentinean case.

The Cairo Conference of Population and Development: A Landmark on Reproductive Rights

The Cairo Conference, held in 1994, was a landmark for reproductive rights, as it altered the existing perspectives that had complicated the population paradigm, and changed the

are also perceived as relevant to understanding the context of people's choices and opportunities. In her critique of traditional perspectives on women's reproductive behavior, Kabeer also addresses the need of taking into account the relevance of the context of women's lives. In this regard, other opportunities provided by better education and financial independence for women, delay marriages and first birth. This is actually a key for women's independence from their reproductive role.

international universe of political discourse. Cairo World's programme formulated a new definition of population policy, one that emphasized the empowerment of women and downplayed the demographic rationale. It also articulated a broader concept of family planning that placed such programs within a larger context of comprehensive reproductive health services (Higer 1999, 123). Previous UN conferences, which addressed the need to ensure women's rights are the predecessors of the debates that took place during the 1990's. Indeed, several UN Conferences and international conventions have established reproductive health as a matter of rights and gender equality. They stressed that reproductive rights must be considered a health problem related to overpopulation and high women's/maternal mortality rates in the developing world. A series of major UN conferences in the early 1990's provided the International women's health movement (IWHM) pragmatists with focus and a catalyst for action. These conferences addressed the environment (1992), human rights (1993), population (1994), social development (1995), and women (1995). They followed up on the 1985 UN Women's Conference in Nairobi, which was the largest ever-worldwide gathering of women to that point (129). During the 1980's, a new agenda on gender equity in health established that unequal power relationships between the sexes affect women and men differently, with respect to their access to health services. Women's health advocates called for gender equity perspectives to be included in health policy. Consequently, both the UN International Conference of Population and Development held in Cairo in 1994, and the UN International Conference of Women in 1995, explicitly recognized the need to contextualize women's health in their active and equitable participation in society as a whole.

In particular, the Declaration of the Conference on Human Rights, conducted in Teheran in 1968, was the first step in the debate on the regulation of fecundity as a basic human right. There, reproductive health was framed as a public health issue, rather than only a private matter. The International Conference on population in Bucharest in 1974 highlighted that it was the states' role to make contraceptive mechanisms and information on reproductive health and family planning available. At the International Conference of the International Year of women, held in Mexico City in 1975, it was stated that women have the right to make decisions about their own bodies. The women's movement then, attempted to situate reproduction in the sphere of reproductive health and rights, including optional maternity. Later, the International Conference of Population in Mexico in 1984 reinforced the idea of the rights of couples, not just individuals. It also established the state's responsibility to provide the means to make reproductive rights effective.

The Cairo Conference resulted in a new concept of reproductive rights, with the introduction of three important changes to the new paradigm of reproductive policies. First, the main focus shifted from population control by fertility regulation toward an emphasis on reproductive rights and gender equity, as well as the need to eliminate poverty and empower women. Second, sexual health and rights became a separate issue, distinct from reproductive health. Third, the new paradigm surpassed the limits of previous approaches to development, which had emphasized mother's health (e.g. old nutritional programs), by promoting the importance of considering a woman's health beyond her maternal functions. Among women's organizations, the activism of the International Women's Health Movement (IWHM), which emerged in the 1970's and

1980's, was critical to the redefinition of the agenda. The IWHM had the support of an increasing number of NGO's at the Cairo Conference whose memberships were mostly made up of women. They also benefited from a change in US policy, introduced by the Clinton government that explicitly supported abortion rights, as this helped develop a favorable international political opportunity structure for feminist activism. As Higer noted, "The Clinton administration also endorsed a platform that promoted a broader approach to population and development, an emphasis on women's empowerment, and a need to ensure access to high-quality family planning and reproductive health care" (1999, 137). Despite the Clinton government's interest in the regulation of abortion as 'legal, safe and rare', however, the highly organized, transnational opposition of the moral conservative faction, lead by the Holy See, made this impossible.

The new paradigm highlights the fact that illegal abortion is unsafe, and results in high maternal mortality. A second important element in the renewed feminist critique is the need for 'reproductive safety': an integrated approach to health that goes beyond pregnancy avoidance. In this regard, inadequate nutrition and poor health services are also significant causes of maternal mortality.⁶² The emphasis on maternal mortality as the most relevant reproductive health indicator became central to spreading a discourse on reproductive rights around the world, and had important ramifications for Argentina.

⁶² For a complete analysis of the role of women's health experts in the Cairo Conference and the re-shaping of the reproductive debate see (Higer, 1999)

Pro-life vs.-choice Groups in the International Scale

Feminists introduced two types of issues into the reproductive agenda: they critiqued the demographic rationale articulated in previous conferences, and they provided a broader critique of structural adjustment policies and their ramifications for women. While radical feminists criticized the demographic reductionism of the perspective of reproductive health, the appearance of pragmatic women's groups within the women's health organization contributed to reaching an agreement with population groups in order to achieve a common outcome from the Cairo Conference (Higer 1999, 136). Some of the most relevant critiques of the women's groups' focused on the imposition of certain methods—like forced sterilization and the lack of information and advice for women—and the implementation of vertical programs to distribute contraceptives. As McIntosh and Finkle note, “The new model [the emerging paradigm from Cairo] asserts that programs that are demographically driven, and are intended to act directly on fertility, are inherently coercive and abusive of women's right to choose the number and timing of their children” (1995, 227). With the participation of other women, feminist activists emphasized that family planning services should be included in comprehensive programs of reproductive health services. They argued that any reproductive policy should stress the need to empower women. “For many in the women's movement, however, the effect on population trends would be incidental because it is the effect on women's rights, status, and empowerment that matters to them” (McIntosh and Finkle 1995, 227).

The US delegation worked to develop a perspective on the support of access to abortion services, not just a position that reduced abortion to cases of rape and/or incest. This was why the Vatican was alarmed by US support for abortion, as the US position

was that abortion should be 'safe, legal and rare'. Indeed, part of the strategic discourse of the US government and feminist pragmatist organizations was intended to frame abortion as a health problem rather than as a civil rights issue, and to highlight the significant number of maternal deaths due to unsafe abortion. They also tried not to focus on the demographic rationale that had characterized previous family-planning programs. Certainly, abortion should not be used as a method of contraception but, instead, as a last resort. The Clinton Government, however, tried to frame abortion in the context of reproductive health and the recognition of diversity within family values and forms. For the Clinton government, "...family values means the more liberal social values of a younger generation who take for granted easy access to contraception, legal abortion, and divorce, and recognize the special needs of single-parent and other 'nontraditional' families" (McIntosh and Finkle 1995, 244).

Conservative groups, activities were orchestrated by the Vatican, contested the position of the women's movement. Indeed, the Vatican decided to participate in the Cairo Conference because much of the discussion was to be about abortion and the role of families. The Vatican opposed the view of the feminists and Clinton's government, and with the support of other countries and conservative NGO's the Holy See argued that 'family values' must be respected and protected, and that abortion and the introduction of 'artificial' contraception represented an attack on family values. While Argentina's delegation strongly supported John Paul II's position against abortion, remarkably, the only other Latin American countries to support the Vatican were Nicaragua, Guatemala, Honduras, Peru and Venezuela. Due to the populist leadership of John Paul II, who denounced economic globalization and social inequalities, Muslim countries such as Iran

joined the conservative alliance against abortion. These countries invoked issues such as national sovereignty and cultural differences to build a discourse against a global framework on women's reproductive rights. Other critiques came from radical feminists who denounced the, "Cairo consensus" as a sham designed to replace old-style family planning rhetoric with that of reproductive health, gender equality and women's empowerment in order to legitimate business as usual, or population control with a feminist face" (Friedman 2003, 323).

The national members and the Vatican eventually signed the official document, though with reservations, one of these being that the official Document of Cairo included the need to respect the different cultural backgrounds of the countries represented there. Although there were several attempts to include abortion as part of reproductive health activities, there was not enough agreement to consider it as a valid method of contraception. Yet, important improvements were made in terms of the emerging concept of reproductive rights and the mobilization of women's advocates. This situation would have a significant impact on the Latin American women's movement, Argentina's in particular. A key element from a public policy perspective was Argentina's commitment to the MDG in 2000. As explained in the Introduction of this thesis, Argentina committed to reduce maternal mortality by 2015.

As discussed, pro-natalist authoritarian legislation had been a constant in Argentina from 1970 to the mid-80's, and there was no social debate on reproductive rights during that period. Yet women's political participation, and the domestic context of democratization after 1983, provided a political opportunity structure to include these issues in the national debate, though the debate did not become critical until the 1990's.

The Cairo Conference constituted a particular landmark for reproductive rights because it advanced a new definition of population policy, which gave prominence to reproductive health and the empowerment of women, while downplaying the demographic rationale for population policy. The programme of Action that came out of Cairo urged governments to restructure their population policies to address such issues as the reduction of maternal mortality, the prevention and treatment of sexually transmitted diseases (including HIV/AIDS), the prevention and treatment of unsafe abortion and, almost important, the empowerment of women.

As at other international conferences, the role of NGO's was important due to their participation in preparatory meetings, regional conferences and drafting of the final documents, and their alliances with the governments that supported the new paradigm. The Argentinean state was very involved in the international scale by contributing to frame the political debate, and the development of these international norms also impacted the Argentinean national debate. The official Argentinean position, however, contested the progressive measures taken to ensure women's reproductive rights, in particular those promoted by the Clinton administration in the UN arena regarding abortion and reproductive rights.

Menem's Social Conservatism: The Transnational Debates and Their Impact on the National Scale

As social movement literature suggests, the mobilization of social movements can also open opportunities for their opponents, expanding the field of collective action (Orsini 2002, 487-8). Indeed, analysis of the international universe of political discourse has revealed the reorganization of pro-choice and pro-life groups. The 1990's was a period of

construction of global norms and the transnationalization of the reproductive rights debate. As previously mentioned, during Menem's Presidency the Argentinean government actively participated in the Cairo and Beijing conferences, but due to its alignment with the Vatican and 'fundamentalist' countries opposed to reproductive rights, it introduced important reservations into the final version of the documents.

The Argentinean government wanted to demonstrate its commitment to international standards, and thus agreed to follow the principles included in CEDAW, the Convention that had been ratified by the Argentinean Congress in 1985 during the Presidency of Raul Alfonsín (1983-1989). In the 1990's, however, Menem's government had reservations about both the 1994 Cairo and 1995 Beijing conference documents. They argued that Argentina only supported the original text of CEDAW, which did not explicitly use the term 'reproductive rights. Nevertheless, CEDAW does include an open concept of 'family-planning', and urges governments to implement contraception services in the context of the family. In paragraph (e), the CEDAW states that all individuals have, "...the same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights" (CEDAW 1979).

The general and imprecise wording of the CEDAW document was used strategically by the Argentine Government to avoid further debate on the issue of contraceptive methods and abortion. They maintained that the Article did not alter the basic principles of the Argentinean state, and that the traditional family form was still considered 'the basic social unit' of society, which excluded abortion as a service and/or method of fertility regulation. Yet, in CEDAW article 16 on marriage and family

relations, it is established that, “States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women”. The Argentinean government claimed that the concept of reproductive rights—as expressed in both the Cairo and Beijing documentation—was euphemistic, and used to introduce and legitimize abortion and ‘abortive’ methods of contraception. Indeed, the Vatican developed this position and the international catholic network actively engaged in the international debates.

Cairo, in 1994, was the first of a series of conferences at which Argentina introduced important reservations related to the concepts of reproductive rights and family. On that occasion, Argentina introduced a reservation regarding Chapter 6, Principle II of the document, which links high fertility rates, economic growth and children in poverty. The reservation was an attempt to include the protection of children’s rights from the moment of conception, which is contrary to the inclusion of abortion as means of fecundity regulation. “Taking into account that life exists from the moment of the conception and starting then the person in his/her unique and immovable dimension, enjoys the right to life, as this is fundamental to all individual rights...”

Argentina also introduced a second reservation, related to changes in family structures and compositions, to Chapter V, paragraph 5.1:

“While various forms of the family exist in different social, cultural, legal and political systems, the family is the basic unit of society and as such is entitled to receive comprehensive protection and support. The process of rapid demographic and socio- economic change throughout the world has influenced patterns of family formation and family life, generating considerable change in family composition and

structure. Traditional notions of gender-based division of parental and domestic functions and participation in the paid labour force do not reflect current realities and aspirations, as more and more women in all parts of the world take up paid employment outside the home. At the same time, widespread migration, forced shifts of population caused by violent conflicts and wars, urbanization, poverty, natural disasters and other causes of displacement have placed greater strains on the family, since assistance from extended family support networks is often no longer available. Parents are often more dependent on assistance from third parties than they used to be in order to reconcile work and family responsibilities. This is particularly the case when policies and programs that affect the family ignore the existing diversity of family forms, or are insufficiently sensitive to the needs and rights of women and children”.

The Argentinean reservation argues, “In no case can its origins and fundamentals be altered, which is in the union between a man and a woman where children are born”.

As shall be discussed, the official Argentinean position at these Conferences was in favour of family planning, and did not include any issues regarding women’s autonomy or gender equality. The emphasis was on the reproductive health of families rather than individuals, but did not specify who in the family should make decisions concerning family planning. Argentina also introduced reservations to Chapter III, which concerned the relationship between population, sustained economic growth and sustainable development. They introduced reservations such as reproductive health services being part of family-planning activities and reproductive rights being part of women’s inalienable human rights, and others. In this reservation, Argentina did not accept that under the concept of reproductive rights, “...abortion could be included as a service and/ or method of regulation of fecundity”.

Despite the official ‘international’ discourse, policies to address family planning at the federal level were almost nonexistent in Argentina. Menem’s government argued

that health services were decentralized in Argentina, and that it was the provincial governments' responsibility to implement family planning programs. Thus, regional allocations of health resources were disproportionate, which particularly impacted poor regions since they have the highest concentration of women in need of family planning services. The lack of responsibility at the federal level was a matter of debate when the Argentinean reports on women's status were submitted to the CEDAW committee in New York. The CNM President at the time, Esther Schiavone, addressed several questions related to the lack of family planning services in Argentina, arguing that the health system is decentralized to the provincial level, and thus it was the responsibility of the provinces to address these needs. The federal government made no attempt to design comprehensive programs to reduce regional disparities in family planning services.

At the international level, the conservative backlash against contraception and abortion began to make progress within the fetus-rights groups. At the Constitutional debate in 1994, Menem attempted to include a clause to advance his anti-abortion positions, and as a result the topic gained visibility in the Argentinean society. Menem's Minister of Justice, Rodolfo Barra, tried to add a phrase to the constitutional text to grant the right to life, 'at conception, in the maternal womb, until natural death', in an attempt to gain legal closure on the issues of abortion and euthanasia. Conservative groups allied to the Catholic Church such as 'Tradition, Family and Property' lobbied delegates, organized demonstrations and circulated petitions. "Cardinal Antonio Quarracino, Archbishop of Buenos Aires, declared on television that, '... delegates who vote for abortion will pass into history as criminals, because abortion is, was, and will be simply and terribly a crime: the killing of an innocent being'" (Htun 2003, 162). In addition,

delegates from right-wing parties presented different documents in the same ideological theme at the convention.

These actions triggered the mobilization of the Argentinean women's movement, which was supported by Virginia Franganillo, the first woman activist to lead the CNM (1992 to 1994). This occurred after the Cairo Conference, when the official Argentinean position conformed the Vatican and other fundamentalist states' opposition to reproductive rights. Several Argentinean feminist activists agreed that both Cairo (1994) and Beijing (1995) provided the political opening to make reproduction an important and sensitive political issue (Zurutuza 1998, 55).

To defeat the 'life at conception' proposal, over a hundred women's groups formed an alliance called MADEL, a coalition that organized street demonstrations, lobbied delegates and disseminated their arguments through the news media. Some analysts claim that women's actions during the 1994 Constitutional Convention constitute a landmark in the history of the movement, "...the women's movement went through a hitherto unheard of political and organizational experience that marked a turning point in its history" (Dinardi et. al.: 13). The coordinated action that women developed was reflected in their representation at the convention which, due to the implementation of the new quota law, was more than 20%. Regarding these events, Htun has argued that major newspapers and magazines provided extensive coverage of the abortion debates and the results of investigative reports into women's varying experiences with, and attitudes toward, abortion. Feminist legislators and activists from the governing Peronist Party confronted the Peronist position.

The constitutional debate of 1994 took place after the resolution of Cairo and the preparatory meetings for Beijing, while the CNM was involved in a campaign to promote reproductive rights. At the same time, the effect of the quota policy on women's representation, and the strategies developed by the women's movement (double militancy and transversal politics), empowered women in the national congress. The debate in the domestic arena paralleled the international discussions and the official positions of the Argentinean state, and women's representatives in the National Congress made the first attempt to introduce a reproductive rights law there.

In 1995 feminist legislators, supported by feminist activists outside Parliament, introduced a bill to the National Congress to gain approval of a programme of family-planning services. The bill—which aimed to create a programme called the *Programa Nacional de Procreación Responsable*—established the rights of individuals to make decisions about their reproductive behavior. Although the bill passed in the Deputy Chamber it was never debated in the Senate, and expired in 1997. Some feminists, particularly those less involved with the party system, suggested that it was better to have, “...nothing, rather than a bad law”, because the bill did not include any explicit measure to de-criminalize abortion (Zurutuza 1998).

Due to the controversy surrounding reproductive rights and disagreements with President Menem, Virginia Franganillo, the head of the CNM, resigned, which caused the Argentinean women's movement to become isolated from the national bureaucratic state. As further developed in this chapter, the CNM was marginalized from discussions on reproductive rights after they appointed a woman with no connections to the women's movement. Instead, they focused on a technocratic agenda related to balancing work and

family life—like equality of opportunity in the workplace, especially within the public sector.

The newly appointed President of the CNM, Esther Schiavone, supported President Menem's anti-abortion position. The Beijing Conference took place while she was in office, and Argentina joined other pro-life countries in alliance with the Holy See. The Argentinean representatives introduced the same type of reservations as they had in Cairo, the first being their agreement with the concept of reproductive and health rights that, in the Beijing Platform of Action (POA), in the Section of Women and Health, 96, established that,

“Bearing in mind the above definition, reproductive rights embrace certain human rights that are already recognized in national laws, international human rights documents and other consensus documents. These rights rest on the recognition of the basic right of all couples and individuals to decide freely and responsibly the number, spacing and timing of their children and to have the information and means to do so, and the right to attain the highest standard of sexual and reproductive health. It also includes their right to make decisions concerning reproduction free of discrimination, coercion and violence, as expressed in human rights documents. In the exercise of this right, they should take into account the needs of their living and future children and their responsibilities towards the community. The promotion of the responsible exercise of these rights for all people should be the fundamental basis for government- and community-supported policies and programmes in the area of reproductive health, including family planning. As part of their commitment, full attention should be given to the promotion of mutually respectful and equitable gender relations and particularly to meeting the educational and service needs of adolescents to enable them to deal in a positive and responsible way with their sexuality. Reproductive health eludes many of the world's people because of such factors as: inadequate levels of knowledge about human sexuality and inappropriate or poor-quality reproductive health information and services; the prevalence of high-risk sexual behaviour; discriminatory social practices; negative attitudes towards women and girls; and the limited power many women and girls have over their sexual and reproductive lives. Adolescents are particularly vulnerable because of their lack of information and access to relevant services in

most countries. Older women and men have distinct reproductive and sexual health issues, which are often inadequately addressed”.

The Argentine government decided to introduce a reservation to that article, “...because that includes abortion as a method of regulation of fecundity”. It also established that, “...the concept of reproductive rights—in parity between men and women to decide on the number of children and the separation between them...is understood according to CEDAW (art. 16) and the Declaration of the programme of Action of Vienna (paragraph 41)”⁶³. Regarding the concept of the family, the Argentinean reservation made clear, “...the obligation that sex education does not alter the principle of parental responsibility vis-à-vis children’s education and according to the International Convention on Children’s Rights”. For the anti-abortion groups, children’s rights also apply to the fetus.

By 1996, however, the reproductive rights debate between the pro-life supporters (i.e. government, the Catholic church and other conservative groups) and the pro-choice groups led by the women’s movement and leftist groups had become increasingly polarized. As part of the conservative strategy, in 1998 Menem issued a presidential decree declaring March 25 as the ‘Day of the Unborn Child’ (the date was selected to coincide with the Roman Catholic Feast of the Annunciation). Referring to international agreements such as the Universal Declaration of Human Rights, the Convention on

⁶³ The paragraph 41 of the Vienna Declaration affirms “The World Conference on Human Rights recognizes the importance of the enjoyment by women of the highest standard of physical and mental health throughout their life span. In the context of the World Conference on Women and the Convention on the Elimination of All Forms of Discrimination against Women, as well as the Proclamation of Tehran of 1968, the World Conference on Human Rights reaffirms, on the basis of equality between women and men, a woman’s right to accessible and adequate health care and the widest range of family planning services, as well as equal access to education at all levels” (Vienna Declaration-World Conference on Human Rights 1993)

Children's Rights, and the Cairo and Beijing conferences, the decree declares, "...the international community has identified the child as a dignified subject of special consideration [*un sujeto digno de especial consideración*]" (Decreto 1406/98). Though the decree insisted that, "...the protection of life is not an ideological or religious question, but rather something that emanates from human nature", Htun argued, "...most Argentine observers believed that the decree was part of a governmental effort to charm the Vatican" (2003, 162).

In addition to the reservations introduced by the government, during the 1990's Argentina had also opposed the ratification of the Optional Protocol to CEDAW. As noted earlier in this chapter, the Optional Protocol would provide access to justice for women at the international level. It would allow Argentinean women who had been denied access to justice at the national level to have their claims reviewed by the committee of independent experts that monitors compliance with the Convention. Conservative opposition to the Optional Protocol in Argentina was strongly related to the issue of abortion and reproductive rights. Thus, the Catholic Church opposed the adoption of the Optional Protocol, arguing that it would 'open the door' to abortion in the country, while other opponents raised issues of national sovereignty and other concerns. For example, an editorial in the influential Argentinean newspaper '*La Nación*' suggested that it was a possible violation of national sovereignty, and emphasized the Argentinean commitment to the protection of human life from the moment of conception, according to Art. 4 of the Pact of San Jose de Costa Rica ratified by law 23054, and the Convention of

Children's Rights ratified by law 23849, both of which are in the national Constitution.⁶⁴

In contrast, the Argentinean women's movement conducted an active campaign urging the National Congress to ratify the Optional Protocol. During the parliamentary debates held in commissions, the Senator for the Province of Misiones suggested ratifying the Optional Protocol, while introducing reservations related to the respect of the life from the time of the conception. This however, is not an option under international law.

It was evident that the strategies of the women's movement at the international level differed from the official Argentinean position. As discussed in this chapter, the position taken by Menem's government was far removed from that of the women's movement, and the division was highlighted in the international arena, because the Argentine women's movement had advocated for integration with other Latin American women's groups.

For the Argentine women's movement, however, the international scale provided an influential political opportunity structure to raise women's claims, because Menem's government was opposed to national reform of reproductive rights, reform, which had actually emerged from international developments. Along with integration in the international arena, regionalization constituted an important strategy for Argentine women's organizing, as explained in chapter three. The next section presents the main characteristics of the regional political opportunity structure.

⁶⁴ The Optional Protocol was finally approved in the National Congress in 2006, and its effects are still to be evaluated. After a long campaign by the women's movement, the Optional Protocol was approved. Peronists MP's Juliana Marino and Juliana Di Tulio presented a bill to the Congress and finally got support from other legislators in the liberal direction. The Catholic Church, its associated conservative groups and right-wing parties represented in the National Congress on the other hand disagreed.

Regional Political Opportunity Structures and Latin American Women's Organizing

The historical legacies of military regimes are critical to understanding the transnationalization of the Latin American women's movement, and the consolidation of a convergent gender equality agenda in Latin America. Most military regimes of the 1970's in countries like Argentina, Brazil and Chile, had attempted to reinforce a conservative model of gender relations, which included repression of women's reproductive freedoms. As discussed in chapter two, this was also the case in Argentina, with the prohibition of contraception in the 1970's. In this context, it is clear why democratic transitions and women's activism in Latin America were accompanied by demands for democracy, rights and citizenship. As Waylen has pointed out, "...some women activists hoped that the return to democracy would bring with it a number of progressive gender reforms" (2003, 168). Consequently, it was easy for Latin American women activists to find 'common ground' with international discourses on gender equality, and to influence the international agenda by participating in international organizations and international regional women's conferences (Waylen 2003, 172). The internationalization of human rights and the democratization processes in the regions gave women activists new legal tools within their countries. As Wekerle notes, "...based on these international agreements, signed by national governments, women's movements argue that human rights cannot be constrained or revoked by nation-states" (2000, 205).

The global gender equality agenda reached Argentina largely through the regional formulation of platforms for action. Within the UN system, Latin American states have developed their own regular conferences (e.g. the Regional Conference about Women of

Latin America and the Caribbean) organized by ECLAC. Through these meetings, Latin American states came to agreement on the development of a Regional Platform for Action for the Women of Latin America and the Caribbean (RPA) to complement previous instruments for the advancement of women, such as the Beijing Platform for Action. The RPA (1995-2001) identified many priority areas, such as: gender equity in economic and social development, women's equitable sharing in decision-making and power in public and private life, elimination of poverty, peace and violence and human rights, shared family responsibilities, and international support and cooperation (RPA 1995). Successive regional women's conferences have been held in different Latin American countries, and have produced three documents—the Santiago Consensus, the Lima Consensus, the Consensus of Mexico City, and the Quito Consensus—with the goal of translating general purposes into practical policies. In all these regional conferences, national member states have agreed to implement the RPA (See Chart 3 at the end of this chapter).

Although UN related regional conferences, like global conferences, have played an influential role, their resolutions are not backed up by potential sanctions to deal with states that apparently don't do enough to address gender inequality. There are no explicit monitoring mechanisms, and though national governments might agree to actions at the regional level, they are not obliged to implement them rigorously. Nevertheless, the new Latin American gender equality regime at least provided women's movements within the region a means to put pressure on national governments to advance a gender equality agenda. This has provided an important opportunity for political activism and communicative action. In particular, they have contributed to a shared discourse,

denouncing economic injustice due to structural adjustment policies implemented in the region. Indeed, the formation of collective understandings at the regional level provided an intermediate scale of action for women's organizations.

The formation of regional organizations and development of regional conferences provided opportunities for grassroots groups who had limited access to the international conferences—due to geographical distance and/or the use of Spanish as a common language—to be part of the global institutionalization of the of women's interests.

CLADEM (Comité de América Latina y el Caribe para la Defensa de los Derechos de la mujer) is an example of a regional Latin American organization with a presence on different scales (national and sub-national). CLADEM also has representation in the UN, and influence in different national governments. In addition, CLADEM is organized at the sub-regional level in the context of Mercosur, which had acquired special relevance with Nestor Kirchner's government. Work there is concentrated on three areas: violence coordinated by CLADEM Brazil, economic and cultural rights coordinated by CLADEM Paraguay, and reproductive rights coordinated by CLADEM Argentina (Interview 24).

The spread of specialized NGO's such as CLADEM, FEUEM and others with influence at different regional (Latin America) and national scales, also facilitated the 'absorption' of selected women's topics and feminist discourses and agendas in national and international policy arenas, particularly international agencies like the World Bank and IDB. In the 1990's the rapid inclusion of new and 'historical' feminist ideas and issues by Latin American states was also possible, due to the penetration of women activists in different institutional positions at the international, national and local levels of government. By infiltrating the structure of the international system as 'gender experts',

women contributed to shaping the political gender discourse. Their penetration of the UN system was based on the appearance of gender experts working in NGO's with different degrees of access to the UN arena.

These organizations, however, have limited access to international funding, especially in Argentina. On one hand, Latin America is not a priority area for international organizations that provide funding, such as UNIFEM, the Ford Foundation, etc. When comparing income per capita and other human development indicators, global contributors have given priority to poorer regions such as Africa, Asia and Eastern Europe. On the other hand, Argentina's NGO's have had limited access to international funding because, in the Latin American context, Argentina has ranked as a more developed country (Interview 18). Due to this lack of international funding, and the political limitations to access to international economic support, organizations such as CLADEM have worked hard to frame political discourses and establish networks with women in different arenas. To be able to affect policy change they had to survive and advance their positions through extensive networking and political advocacy. A great deal of their work is done on voluntary basis.

Some scholars have also pointed out the relevance of feminist discursive practices to feminist advocacy (Kardam 2004; Pettman 2004; Stienstra 2000), and gains can be observed at the level of the political discourse. In particular, Friedman argues, "The central finding of my research is that the development of collective understandings; an action repertoire geared at leaving institutional traces of such frames, and the intense framing contests they can provoke, provide the best explanation for the successes of the UN-focused contemporary transnational women's movement" (2003, 316). Using similar

arguments, Manisha Desai claims, “Transnational feminist movements have primarily succeeded at the level of discourse power. They have operated on the notion of discursive representation rather than political representation...Discourses have an empowering function and are an important site of resistance” (2005, 328).

In addition to facilitating the emergence of counter-movements, the formation of collective understandings at the regional level provided an intermediate scale of action for women’s groups. In particular, preparatory meetings at the regional level helped the Latin American women’s movement pursue an agenda on reproductive rights and gender violence. The formation of regional associations and the development of regional conferences provided opportunities for other groups with limited access to the international conferences to also be part of the global process of the institutionalization of women’s interests. Latin American women’s organizing and planning had had an earlier start, however, in the feminist Encuentros (meetings), where women from different backgrounds and identities have come together to discuss the issues at stake since the 1980’s. These Encuentros are heterogeneous, polycentric and expansive (Alvarez 2000). Alvarez suggests that women, “...continue to view the Encuentros and other alternative transnational arenas, such as the regional networks, as crucial sites in which to re-view and refine their feminist discourses and practices, in dialogue with others in the region” (Alvarez 2000, 35).

Emerging arenas, practices and discourses of transnational women’s organizing at both the global and regional scales have provided critical opportunities for Argentinean women’s groups to jump scale, through hidden reports and participation in global and regional forums. As chapter four argued, it has been difficult for women to penetrate the

bureaucratic apparatus of the Argentine state in order to introduce a gender equality agenda. Some women's organizations have been able to infiltrate the international system of human rights more successfully than at the national scale. This was possible through the new political opportunity structure provided by the international gender regime, which allowed associations to submit alternative reports.

Jumping Scales: Monitoring, Compliance, and the Role of the Argentinean Women's Movement in the UN System

In transnational politics, which can be contentious, social movement actors may decide 'jump scale'; that is, to change scales (by moving up or down) in search for more favourable political conditions (Smith 1992). As Tarrow points out, "...domestic actors, frustrated at their inability to gain redress from their own governments, have long sought the support of external allies" (2005, 145). By providing information to UN officials, women's organizations have been able to make the true status of Argentinean women known, and press the national government to take action on the gender agenda.⁶⁵

The monitoring role of Argentinean women advocates is seen in the hidden reports submitted to UN officials, and the role that these reports played in assessing the state's performance in its implementation of CEDAW rules and conventions. Developing the gender equality agenda involved considering many relevant issues, but one topic in particular captured the attention of women's advocates, Argentinean representatives and UN officials: reproductive rights and abortion.

⁶⁵ Argentina and other countries of Latin America like Chile have a tradition of externalizing calls for action in the domain of human rights. In particular, during the last military dictatorships several domestic actors were able to denounce human rights violations in the country. Sydney Tarrow calls this path of externalization, 'information transmission and monitoring'. (Tarrow 2005)

As noted earlier in this chapter, though international conventions like CEDAW do not force national states to comply with all the regulations stated in the norms, "...a certain level of international pressure and the desire to avoid embarrassment in an international arena may prompt state representatives to go along with decisions taken at international conferences" (Kardam 2000, 8). In addition, during the last twenty years the CEDAW Committee has significantly increased its professionalism and global profile. In addition, there has been an improvement in the reports submitted by the member states, due to their increasing ability to provide reliable data to UN officials (Zwingel, 2005). In this regard, the contribution of domestic women's organizations to raising those issues is important (Alvarez 1999). This process has also revealed the increasing role of women's organizations in Latin American countries, including Argentina; hidden reports provide a detailed analysis of the status of women in Argentina. Among the topics of importance, the reports identify the need to implement policies to deal with violence—including sexual harassment and domestic violence—and to address cuts to social and health insurance, reduction in the levels of family allowances and the lack of regulation of domestic workers. Particular attention is given to the 'deficient' situation within the health sector, and the reproductive rights of women.

The alternative reports were written and submitted by six Argentinean women's organizations: Asociación de Especialistas Universitarias en Estudios de la Mujer (ADEUEM), CLADEM Argentina, Fundación para el Estudio e Investigación de la Mujer (FEIM), Instituto Político y Social de la Mujer (ISPM), Feministas en Acción, Asociación Mujeres en Acción, as well as Centro de Estudios Legales y Sociales - CELS, a broader human rights advocacy group. Some of these organizations (notably CLADEM,

FEIM and CELS) have highly professional staffs, better access to the international system and strong links with other international activists. Others are comprised of women with ‘double militancy’ in political parties and grassroots associations.⁶⁶ There are differences among these organizations in terms of access to international and domestic funding, and their links with international experts and UN officials. Regardless, they are all part of an extensive network that addresses women’s issues. Furthermore, these organizations offer a feminist perspective to mainstream gender at the different institutional scales (Interview 16). In explaining the importance of their integration with the UN system, the Director of an Argentine NGO for reproductive rights argued,

“Our participation in International Conferences helped us a lot to diffuse our work about reproductive rights and to gain attention from legislators and the national media. We greatly value our participation in the United Nations. For us the ‘hidden’ reports were very important to expose the critical situation of reproductive rights in Argentina” (Interview 18).

Official national reports were first submitted in 1988 during Alfonsín’s presidency, and then again in 1997, 1998, 2002 and 2004, coinciding with the increasing globalization of women’s issues. UN officials were concerned about three types of issues which were raised by the women’s organizations through these hidden reports, and which reflected the problems of the national state: structural adjustment policies and women’s poverty, the institutional weakness of the CNM, and reproductive rights and health.

⁶⁶ One of the particularities of Latin American women’s organizing, highly noticeable within Argentinean activism, is the ‘double militancy’ of the women working in networks. Women participate in political parties while identifying themselves as part of the women’s movement (*movimiento de mujeres*), or they are members of the trade unions as well as activists (*militantes*) of the women’s movement

The first set of issues relates to women's welfare after the effects of structural adjustment policies in Argentina, as well as in the rest of Latin America. For example, in 1997 the principal areas of concern for CEDAW were the increasing levels of female unemployment after the implementation of structural adjustment policies, the gender segregation of the labour market, and the lack of special legislation to penalize sexual harassment in the work place. In addition, CEDAW addressed the high levels of maternal mortality and morbidity due to childbirth, and the fact that abortion remained high 'despite the economic and social development of the country' (CEDAW 1997). As a result, they recommended actions to reduce maternal mortality, including a revision of the legislation to decriminalize abortion.

The second area of concern, the institutional instability of the CNM, is an issue of particular relevance to the six women's organizations submitting the hidden reports to CEDAW. After the financial crisis of 2001, concern over the institutional situation of the CNM within the national government was reflected in the hidden reports. For example, the report submitted in 2002 articulated concern with increasing poverty and the lack of coordinated national policies on reproductive health and rights, together with the ongoing disempowerment of the CNM as the main mechanism to coordinate and monitor the implementation of a gender equity agenda across all public policies. The 2002 report informed the CEDAW Committee that CNM had, "...suffered an institutional and financial downgrading since becoming a programme of the National Council of Social Policies January in 2002. As noted in chapter three, since 1998 the CNM has experienced ongoing budget reductions and a decline of management autonomy, and the situation had become worse since 2002" (CONTRAINFORME CEDAW 2002, 4). In the report the

organizations also revealed that, "...there are no mechanisms for coordination of the different state agencies, in particular between the CNM, the Women's Office in the Ministry of Foreign Affairs and the women's movement" (CONTRAINFORME CEDAW 2002, 4).

In response to the concern of women's organizations at the public hearings held in 2002, UN officials advised the Argentinean government to, "...attempt to downgrade the CNM and the lack of a formal strategy for coordination of the different state agencies. The Committee noted the importance of continuity, autonomy management and coordination of the national mechanism for the advancement of women at this time of crisis in the country and recommends that they should be strengthened" (CEDAW 2002).

The third area of concern relates to reproductive rights, an issue that shaped the gender agenda of the 1990's in Argentina, and one, which women's organizations played an even more critical role in addressing through the hidden reports. The emergence of reproductive rights was also supported by the results of the Cairo Conference on Population and Development held in 1994, and the emergent global gender equality regime on reproductive rights.

The reports were critical of Menem's policies on reproductive rights. Specific questions were asked of the Argentinean representatives in several sessions where the reports were discussed. In the questioning of 1998, the assembly chairperson, Ms. Castillo, asked if, "...the government intended to review its policy of permitting sterilization of women only with the expressed consent of their husbands or partners and only in life-threatening situations, and if not, what its reasons were to continue to permit that legal obstacle to the exercise of women's reproductive rights" (CEDAW 1998, Art.

12). Furthermore, she was also, "...alarmed that abortion and obstetrical complications were the principal cause of death among Argentine women" (CEDAW 1998). The Argentinean representative and president of the CNM, Esther Schiavone, responded, "...women had the right to decide how many children they had and the spacing between them. There were disparities in the information and counselling services available, however, as, owing to the decentralization of health care, such programs were implemented at the municipal and provincial level" (CEDAW 1998, Art. 16).

In contrast to the answers provided by the Argentinean government, the hidden report of women's organizations emphasized the lack of reproductive rights, and the role that old demographic policies still played in government's decisions. Women's organizations noted that the situation has not been modified since 1997.

"Historically, Argentinean women have seen their free choice of having children or not, how many, when and how to have them restricted. Despite CEDAW and other international instruments of human rights the situation has not changed. The Argentinean state has a persistent pro-natalist tradition, and it is sensitive to the pressures of conservative groups inside and outside the Catholic Church. As a result, the Argentinean State has not been able to carry out comprehensive and persistent public policies to guarantee reproductive rights. Since the last report submitted to CEDAW in 1997 this situation has not changed" (CONTRAINFORME CEDAW 2002, 16).

In this report, the organizations also noted that, "...according to official data, in Argentina there are 400,000 abortions performed each year. Obstetrical complications for abortions are the first cause of hospitalization in gynaecological services" (CONTRAINFORME CEDAW 2002, 18). Based on this information, CEDAW representatives questioned the Argentinean representatives about the imbalance of reproductive health policy implementation.

Among other topics included in the gender equality agenda, UN officials recommended that Argentina take action on issues such as the quantification of unpaid women's work, parental sharing of common duties and responsibilities in the household, regulation of childcare, regulation of domestic employees, violence against women and, in particular, sexual harassment in the work place.

The analysis of the hidden reports, and of the CEDAW monitoring process, reveals that women's organizations made use of a critical tool to articulate global and local discourses, and push the national government on these issues. During the 1990's, women's groups were effectively able to jump scales of political activism by pressuring the national government to obey international rules on gender equality. Moreover, the participation of feminist advocates in the Kirchner's government, installed in 2003, contributed to shift Argentina's positions on reproductive rights in international arenas, as was developed in chapter four.

Conclusions

The redefinition of the national gender regime, as demonstrated with reproductive rights, is happening in a multiscalar world, where different interconnected political structures provide opportunities to Argentinean women's advocates that enable them to challenge gender relations at the national scale. The emergence of a global gender regime, and the increasing transnationalism of the women's movement has—in Latin America in particular—provided the Argentinean women's movement with discourses and strategies with which to frame women's reproductive rights in the context of women's equality.

Despite those international developments to advance reproductive rights, the Argentinean state was active in countering attempts to liberalize women's reproductive rights. Since Cairo in 1994, the positioning of the actors who oppose reproductive rights has been led by the national government. As a result, at the national scale women's groups were hindered in their attempts to advance gender issues. This chapter explained how women's groups' ability to jump scales was critical to challenging pre-existing power relations at the national scale. Indeed, issues discussed in the UN arenas—poverty, and inequality, CNM's institutional weakness, and reproductive rights and health—resulted from the domestic tensions created by attempts to translate a global gender regime into varied projects aimed at adjusting the national interests related to new gender equality goals. An excellent example of scalar strategies is women's organizations providing information to UN officials, thereby forcing the Argentinean government to be held accountable during UN hearings for its previous commitments to enforce women's rights. International monitoring mechanisms and the contribution of the different actors to the framing of the debate at the international, regional and national political scales are thus central to understanding the formation of a gender equality agenda in Argentina.

The transnational character of Latin American women's organizing has also provided an intermediate scale of activism, which allows women from the region to build shared understanding and common goals at international women's conferences. Nevertheless, it is argued that constraints at the national scale—such as the fragmentation of the women's movement and the lack of government commitment to institutionalize women's issues in the bureaucracy—made it difficult to implement and sustain a gender agenda over time. As a result, the ability of women's organizations to go beyond the

traditional domestic political arena was critical to their chances of challenging existing power relations at the national scale. By providing information to the UN officials, women's associations have externalized their demands and pushed the national state to comply with international norms. This has been critical in Argentina due to the difficulty of infiltrating the national state, as explained in chapter three.

While the national scale was limited to advancing gender issues, the ability of women's groups to jump scales was critical to challenging pre-existing power relationships at different scales. The emergence of the concept of 'reproductive rights' also reveals the transnational character of this struggle, particularly in the last two decades. At the global level, pro-choice and pro-life groups shaped discourses, which were originally framed by the struggles about abortion rights in the United States. It is interesting that not only did women's organizing become transnationalized, but that the Vatican led the most conservative groups. Indeed, the latter played a critical role in constructing the alternative discourses that shape the different positions towards reproductive rights and abortion on the global scale. For example, the modernization of gender relations has affected the defensive positions adopted by the conservative groups, who perceive changes in family and moral beliefs as risks to their personal and social values. For them, granting reproductive rights to women might threaten the traditional family form identified with Christian values.

Due to the global and regional adoption of these policies, and the wave of democratization that emerged in the region in the previous decade, the women's movement started to organize around common discourses; principally, against neo-liberal policies. Thus, the effect of regionalization and transnationalism on Argentinean

women's organizing was part of the broader gender regime. Women's organizing has been important at the sub-national scale as well. With its predominant position in a centralized political system, Buenos Aires city operates as an important site for the flow and exchange of ideas that can impact national debate. The next chapter discusses the national and the Buenos Aires city scales, with regard to understanding the struggle for reproductive rights. These developments are analyzed and focused on the universe of political discourse shaped at the different scales, which constitute political opportunity structures for policy and gender regime change.

Chart 3
Regional (Latin America) Scale Gender Regime
Economic Commission of Latin America and the Caribbean
UN-related Conferences

Regional Women Conference Latin American and the Caribbean	Conferences' outcomes	Gender Policies
First Cuba 1977 Second Venezuela 1979 Third Mexico 1983 Fourth Guatemala 1988 Fifth 1991 Sixth Argentina 1994 Seven Chile 1997 Eight Peru 2000 Nine Mexico 2004 Ten Ecuador 2007	 Regional Platform for Action 1995-2001* Santiago Consensus Lima Consensus Mexico Consensus Quito Consensus	 Gender Mainstreaming**

* It established seven priority areas as follows: I) Gender equity, economic and social development, with a gender perspective. II) Women's equitable share in the decisions, responsibilities and benefits of development. III) Elimination of poverty. IV) Women's equitable participation in decision-making and in the exercise of power in private and public life. V) Human rights, peace and violence VI) Shared family responsibilities, recognition of cultural plurality in the region. VII) International support and cooperation.

** Adoption of gender mainstreaming in the Latin American context for the first time

Chapter Five

Framing Women's Rights in Argentina: The Reproductive Rights Debate in Different Scales

If women's autonomy and the ability to have the number of children we want is functional to the interests of capitalism...we are sorry, but we are not going to fight against capitalism with the absence of policies related to our wombs (Juliana Marino, Speech before the Buenos Aires City Legislature, 2000).

Introduction

Previous chapters highlighted the relevance of the emergence of the global gender equality regime, and the changes in the domestic political opportunity structure associated with democratization. The appearance of these multiscale opportunity structures, and the new international discourse on reproductive rights, had important impacts on Argentinean debates at the national and sub-national scales. This chapter highlights the initial opportunities in Argentina to advance reproductive rights. It focuses on the Buenos Aires city scale, which contributed to framing the first debates in the legislature, and subsequently influenced debates on the national scale. As suggested in chapter one, at certain point actors had incentives to move downward looking for more favorable political opportunities for policy change, particularly when the national scale was closed to advancing women's rights during Menem's social conservative government.

Developments on the sub-national scale were important to advancing reproductive rights. After 1995, several Argentinean provinces adopted family-planning policies, despite the lack of support from the federal government (see Table Five). In that context,

however, the Buenos Aires city scale is especially relevant, due to its central position in national politics and the subsequent impact on the development of debates conducted at the federal scale. The democratization of Buenos Aires city occurred in 1996 with the establishment of the new Constitution, which addressed gender equality and reproductive rights. The creation of the legislature, as well as the implementation of the quota, brought an number of important women MP's into the city legislature.

After the crisis of 2001 and the changes in the federal government, new opportunities to discuss reproductive rights opened up at the national scale. These reflected the debates that had originated in the city of Buenos Aires, which framed birth control as a health concern in the context of increasing poverty and inequality. Between 2001 and 2007 a new family planning policy was advanced by the federal government, which included important laws on contraceptive surgery, and legislative debates on therapeutic abortion. Yet, still few gains were made toward legalizing abortion in the country. While several bills were introduced to regulate the procedure and to guarantee therapeutic abortion in public hospitals, the majority of the abortion debate took place through the Courts. It was in the judicial system where the anti-abortion movement attempted to ban the newly adopted policies.

This chapter focuses on the sub-national and subsequent national struggles, examining the different positions in the reproductive rights debate. In order to identify the universe of the political discourse, it concentrates on the analysis of the parliamentary debates—first at the sub-national Buenos Aires city scale, then in the national congress—to analyze how the different actors framed their arguments, the opposing political voices in the debate and the form the dissent took. The emerging universe of political discourse

was a combination of the new dimensions of the discussion on reproductive rights, and the domestic legacies related to the predominance of maternalism and traditional family values. Nevertheless, the medicalization of abortion and contraception allowed women's demands to be established under an acceptable framework.

After analyzing these debates, the chapter looks at the judicialization of reproductive rights after the law was passed in the National Congress, and it identifies the main actors (health experts, the women's movement and the Catholic Church) and political discourses that were used to frame the debate and advance policy change. It examines the resistance to the new law—for example how 'fetus-rights' groups used the Courts to stop the implementation of the program. It also focuses on three main cases that were publicly debated: parents' rights vis-à-vis minors' reproductive decisions, contraceptive surgery, and therapeutic abortion, in order to highlight the critical debates around reproductive rights that currently take place in Argentina.

First Opening: The National Elections of 1999 and the City of Buenos Aires Gender Equality Debate

The change in the national government in 1999 contributed to reshaping the discourse, providing more opportunities for pro-choice groups. The Alianza UCR-Frepaso was a center-left coalition formed to compete with Menem's Peronist party in the federal election. After the new national government was installed, Argentina ended its alliance with the Vatican in International Forums. It publicly recognized women's reproductive and sexual rights as human rights, and acknowledged the connection between high abortion rates and women's lack of access to health services. As Htun notes, "...in his speech before the UN in June 2000, Argentine foreign minister Enrique Candioti departed

from previous policy by declaring that sexual and reproductive rights are a part of women's human rights" (2003, 164). The government of Alianza did not strongly oppose reproductive rights and abortion. Between 1999 and 2001, however, political attention was focused on the economic recession and negotiations with the IMF about Argentina's massive external debt. Thus, the media were most concerned with the economic situation in the country, and did not concentrate on other social issues such as reproductive health.

Politically oriented women who belonged to FREPASO and UCR—the political parties that formed the Alianza, a center-left coalition—tried to advance women's rights in different arenas, using the CNM in particular to implement federal initiatives (Interview 1). Through the CNM the government drafted a federal plan on maternal mortality that called for improvements in family planning services and sex education, the prevention of sexual violence and the reduction of unwanted pregnancies. The women's movement remained fragmented, however; even women within the party government alliance were still divided on the role of the CNM. The President of the women's policy machinery, Carmen Storani, was a member of the UCR Party. Women activists questioned what they saw as partisan behavior of the CNM (Interview 16). Yet, the government adopted more liberal positions.

The more receptive environment for women's rights created an opportunity in January 2001 for a Supreme Court ruling, which authorized the abortion of a fetus suffering from anencephaly in the seventh month of pregnancy (Htun 2003). Two lower courts had denied permission for the abortion and the Supreme Court, for the first time in fourteen years, called the justices in from summer recess to discuss the issue and submit their decision. In their public statements, the justices were careful to distinguish their

decision from a more general permission for abortion, though they did make it clear that the juridical good they were protecting was the mother's mental health (Clarín, January 12, 2001).

Despite the limits to advancing a gender equality agenda on the national scale, new opportunities opened at the local level in Buenos Aires city. As suggested in chapter one, Buenos Aires city had always been a site of intellectual activism associated with liberal and progressive ideas, and that played an important role in the origins of a feminist movement involving urban professional, middle-class women. After a long period of democratic instability, Buenos Aires emerged as a site of important political activism for democratization, which included consequences for women's organizing.

The constitutional reform of 1994 recognized the autonomy of Buenos Aires city. This created a new political opportunity for women's advocates as the city developed a new Constitution, which passed in 1996. It was the first constitution in Argentina to include gender mainstreaming. During the city's constitutional convention there was an important coalition of different social groups that shared similar views regarding human rights; environmentalists, feminists and others. For example, Article 21 of 'Rights and Guarantees' establishes the obligation to pass a basic health law for the city, which includes the promotion of responsible parenthood, thus guaranteeing the reproductive rights of the population by providing specified services. Article 24 on Education established the need to incorporate a gender perspective that addresses human rights and sex education programs. Chapter Nine is entirely devoted to the parity between women and men to, "...guarantee equal opportunities between men and women in public, and promote this in the private sphere" (art. 36). This includes a gender perspective in the

design and implementation of public policies, and the elaboration of an equality plan for women (art. 38). It recognizes sexual and reproductive rights, free of coercion and violence as basic human rights and, "...guarantees equal rights and duties of women and men as progenitors [and] promotes sharing family responsibilities" (Zurutuza 1998, 57).

Thus, thanks to sub-national democratization, the most important changes came from the Buenos Aires City scale. When the new city constitution was drafted in 1996, it explicitly included women's rights and gender equality. In Chapter Nine, Art 37 the City Constitution states, "The recognition of sexual reproductive rights, free of coercion and violence, as basic human rights, especially to decide responsible on the procreation and the number of children and the space between them. [The Constitution] guarantees equal rights and responsibilities of women and men as progenitors and promotes the integral protection of the family" (Buenos Aires Constitution, 1996).

The new Legislature of Buenos Aires city also emerged after the 1996 election, further opening the political opportunity structure to women's demands on the national scale. Buenos Aires city was also the first electoral district to vote against Menem's government, and it became an important site of political advocacy for groups like the women's movement. With the election of the first democratic government in the city (Ibarra's government), a gender equality agenda was passed in the Legislature, an important precursor to the reproductive rights debate.

In 2000, after much debate the legislature passed laws 418 and 439, creating a programme of reproductive health to be implemented in public hospitals and health centers. Without doubt, this debate was more complex than the later one in 2002 in the National Congress, when the Federal programme was passed. The Buenos Aires city

debate put all the relevant key points, and the positions of the various actors into the public agenda. It is relevant because it helped establish the framing of the subsequent debate and issues that would be conducted in the national Congress. The political mobilization of actors from both sides of the issue received much media attention, which exposed the debate to the public.

Framing the Reproductive Rights Debate in the Buenos Aires City Legislature

The legislature of the city of Buenos Aires is unicameral (one chamber), and its daily work is organized by committees specializing in different policy issues. MP's are appointed to the committees and their mission is to debate bills and arrive at basic agreements. After this, the bills are debated in the general assembly before their final adoption. The representation of women in the Legislature was 38% in 1999 (Source: CNM).

The most relevant aspect of the local universe of political discourse is that abortion was excluded as a topic of discussion. To reach agreement and enable the passage of the bill, the pro-choice MP's explicitly maintained that the bill did not include abortion as part of contraception services. Two bills were debated in the legislature. The bill of the majority (presented by Alianza UCR-Frepaso and Justicialista Party) was finally passed after debate in the Committees of Health and Women's Affairs. Simultaneously, MP María Lucila Colombo⁶⁷ submitted another bill to be debated in the Health committee. In order to clarify the Argentinean official position under Menem's government, Colombo included in her Bill all the Argentinean reservations introduced in

⁶⁷ María Lucila Colombo would become the President of CNM during Néstor Kirchner's Administration (2004-2008)

Cairo in 1994 and Beijing in 1995, in particular those related to a potential demographic rationale for the project and the attempt to open the door to abortion.

There were three main points in the agenda of the debate, the first being abortion and contraception methods. In reality, as abortion was excluded, the debate focused only on the provision of contraception methods and reproductive health services. Thus, the terms of the debate had a limited range of acceptable options, narrowing the universe of political discourse. The opponents of the liberalization of abortion went further, arguing that certain methods, such as the IUD and, particularly, emergency contraception (the morning-after pill) were abortive. The women politicians who wrote the bill struggled to include all possible methods in an attempt to ensure access in the public hospitals. This involved conflicts with those opposed to enumeration on moral (possible abortive methods) and medical grounds (leaving this issue to medical professionals and not the legislators). The need to protect the poor as the main clients of public hospitals was one of the reasons mentioned for supporting the bill. "They [the poor] might receive the cheaper, but not necessarily best contraception methods" (MP Rodriguez, 53).

The second issue was related to the role of the family, and the need to protect the private sphere from public intervention. This aspect focused explicitly on the legal concept of '*patria potestas*', the rights of parents over minors. The family topic was central to this debate, and was highlighted by conservative groups and supported by the Catholic Church. Oyhanarte argued, "In the context of the protection of human rights, intervention within the families is necessary within the private sphere, where more times than we can imagine those human rights are violated" (65). Regarding the family, she also claimed,

“The classical concept of the family is one which has biological support related to procreation and sexuality, shared economy and cohabitation. However, [...] we live in a world in which the three dimensions that constitute the classical definition of the family—sexuality, procreation and cohabitation—have changed and evolved in different ways. Thus, what we have is an increasing multiplicity of family forms and cohabitation” (54-5).

Using similar arguments, MP Yelicic stated, “The programme attempts to jointly promote the reflection of parents and teenagers on reproductive health and responsible procreation” (121). Challenging the conservative positions on the family, MP Juliana Marino argued,

“We cannot speak of families in general. I wish that all families could be a place of protection for children and teenagers [...] But we also know that many times families are the place of the lack of love, indifference and sometimes children’s abuse...the family is not always the place we expect to it be” (60).

Other aspects of the bill were questioned, such as the protection of patients by the medical prerogative to act according to private moral concerns (*objeción de conciencia*). Thus, heads of gynecological services would not be required to refuse providing certain methods due to their moral or religious beliefs. The opponents saw this as an opportunity for pro-life advocates to limit the implementation of the program. For the pro-choice groups, this was about limiting the provision of services in public hospitals. In the words of Juliana Marino, “We cannot leave any woman in the hands of an objector of conscience...the Hospital’s Service must guarantee that every woman can receive contraception services”(59).

Despite the intensity of these debates, the Legislature could not legislate on the matter, as it is under federal jurisdiction. Even so, this debate in particular established an important precedent for subsequent national debates in 2002 and 2003. As a result, a change in the national law for the regulation of the medical profession included the individual objection of conscience. As previously indicated, the women's movement played an important role in framing the debate at different scales. In the case of Buenos Aires city, it contributed to expanding the boundaries of the universe of political discourse to address this issue. Nevertheless, they remained divided over several of the issues in the reproductive rights debate.

Women's Positions on the City's Reproductive Rights Debate

In chapter one, it was suggested that three perspectives have dominated the debate on birth control policies: demographics, health, and civil and social rights. International debates empowered women's discourses, focusing on women's health and rights, and downplaying the demographic rationale of the new programs. Nevertheless, all three perspectives emerged in the Buenos Aires city debate, reflecting the historical legacies of Argentina's biological reproduction debates.

Three identifiable groups and their discourses reflected the historical legacies of women's reproductive rights: feminists, feminist-pragmatists and maternalists. The first group is well represented in the discourse of Martha Oyhanarte, who also created the FEIM, the important Argentinean women's NGO related to reproductive rights. This discourse is remarkable for being the only official one of its kind. It emphasizes gender equality/rights as the guiding principles of the project. Oyhanarte critiqued the generality

of the law, and stressed the need for more regulation in order to ensure these rights; for example, the administration of contraceptive services to minors over 14 years old without parental consent. She remarked on the need to institutionalize reproductive rights.

Although Oyhanarte ultimately voted for the bill, she made her reservations clear, one of them being that,

“It is guaranteed that women’s bodies will not be subjected to certain practices without their consent, which implies the recognition of their human rights. In this regard, the imposition of certain contraception methods such as forced sterilization is a form of body violence. But it is also the opposite; the lack of rights to reproductive health services”(62).

She continued, “Sexual and reproductive rights are significant for men and women, but of course even more important for women, because she [the woman] has the bigger physical, mental and social role [on biological reproduction]” (62). In addition, Oyhanarte was critical of the title of the project, “*Reproductive health and responsible procreation*”, arguing that it should have been renamed, “Sexual rights, reproductive health and responsible procreation, because sexual rights are something very different from reproductive health” (62). She also identified the need to regulate the objection of conscience, in order to prevent women from not receiving a service if every doctor in a hospital objects by conscience. Finally, Oyhanarte emphasized the need to develop sex education through information, courses, and other means; to inform women of their rights because this must be a state responsibility (64).

The second group, the ‘pragmatists’, includes members of the *Alianza (UCR-Frepaso)* and *Justicialista* political parties. While they had links with the women’s movement and articulated a discourse based on rights, this group was most concerned

with health indicators and poverty, and avoided ‘hot’ topics such as abortion. Instead, they focused on the non-abortive character of the law, and the need to prevent abortions through implementation of the law. In this respect women’s autonomy was crucial in the discourse (as it was for the feminists) but, more than any others, the pragmatists contributed to expanding the coalition beyond the women’s movement. For example, the MP Liliana Chiernajovsky highlighted, “The need to ensure reproductive rights for the poor without access to reproductive services”(72). She framed this as a problem of public health, bringing the issues of high abortion rates and high maternal mortality—as consequences of this unsafe practice—into the debate. She argues, “What we are doing is something that aims to prevent abortion...this law attempts to deal with social equity...we all use contraceptive methods and I do not know anyone here who has, for example, fifteen children”(73). This intervention caused uproar in the chamber, yet she continued, “...we cannot regulate others’ lives with practices and concepts that we do not use in our own lives” (73) and,

“With this law we guarantee that those who do not have sufficient information, nor the economic and cultural resources to make the reproductive choices that we are able to make, will not be deprived of the freedom to decide on their reproductive rights, which are ensured in the National Constitution, in the Buenos Aires Constitution and in several international Conventions that Argentina has ratified and committed to obey” (78).

Finally, the maternalist proponents reflected in MP Colombo’s (the current President of the Argentinean Women’s Machinery) discourse supported the development of a family planning program, but with many restrictions based on health and poverty concerns. Colombo’s proposed programme existed only within a comprehensive approach to

women's reproductive health, and included the need to support 'humanized birth'⁶⁸ and breast-feeding. While she supported a comprehensive maternal and reproductive health program, she did not view this as a woman's right. Instead, her emphasis was on families as the basic social unit of Argentinean society, and she accompanied this with a critique of foreign models of society. She was primarily concerned with the demographic rationale of these programs, despite the absence of a population/fertility problem in the country. Thus Colombo said, "This debate [reproductive rights] has demographic implications, health, social and deeply human dimensions, intimacy and a lot of complexities"(38). Stressing the demographic rationale of international directives, she quoted the 1998 International Report of the '*Fondo de Población de UN*', in which it is argued that, "...the extension of reproductive health will reduce fertility, bring families to the desired size and, eventually, reduce the size of the family".

Highly critical of the international definition of 'reproductive rights', Colombo argued that the concept of defining reproductive rights as the right to have the desired number of children is 'an abstract idea', unless the socio-economic conditions under which those choices are made are improved. In this regard, discrimination as a consequence of maternity, the need to value women's maternal role, and the respect of cultural and religious values all need to be addressed. Given these considerations, reproductive rights must be practiced with maternity as the principal value, and not as an instrument of demographic and eugenic policies that affect human dignity (see 38). Colombo proposed the introduction of a specific anti-abortion clause in the law, stressing that contraceptive methods must not be abortive, and made particular reference to

⁶⁸ Humanized birth is at the core of the maternal health programs of the CNM. It attempts to reduce the medicalization of childbearing.

emergency contraception, or the ‘morning after pill’. In order to separate Argentinean ideological and historical legacies from the new international standards, she asked the legislature to explicitly define what reproductive rights in the Argentinean context means, making clear her commitment to non-abortion positions (39).

In attempting to narrow the boundaries of the debate, Colombo employed the most traditional positions of maternalism and familialism, which were central to the formation of the Argentinean welfare state. Making a strong defense of family values and the centrality of women’s role as providers of wellbeing, she explicitly stated the idea of the ‘family’ as a primary social unit in Argentinean society. In support of this position, she referred to the Argentinean reservation introduced in Cairo in 1994, which states,

“The programme of family-planning must transcend the simple objectives of birth control. Instead, these programs must be considered within the integral ideal of family orientation and responsible parenthood, promoting the reduction of infant and maternal morbidity and mortality. It must prevent women from suffering from abortions and must combat infertility through the participation of families and respect of the cultural and religious values of education programs for life and sex education”(43).

Her intervention was in accord with the official Argentinean position, as she argued that the acceptance of abortion and sterilization as methods of contraception and population control of the poor ‘might open the door’ to social consequences such as human experimentation. In an interview conducted in Buenos Aires, she argued, “Argentina does not have to accept all the international recommendations when they go against the principles and values of ‘our society’” (Interview 6). This perspective clearly reflects the

resistance to adopting international norms, and stresses issues such as national autonomy and familialism.

The debates in the city of Buenos Aires reflect the way international debates were first introduced into sub-national debates. This would have ramifications in the national debates. The political centrality of Buenos Aires city in these debates was also noted by several MP interviewees, who agreed with the transcendental character of these debates with respect to later developments at the national scale (Interviews 24 and 25). Moreover, the debate in the city of Buenos Aires was perceived as foundational for some MP's. As the MP Ruiz Moreno argued, "The goal that some of us follow is that a similar law will be adopted in Buenos Aires province, in the Federal level and in all other provinces that have the responsibility to provide reproductive health services" (Speech before the Legislature of Buenos Aires city).

The analysis of the city debate reflects two longstanding legacies in the political discourse: the centrality of the family as the primary unit of society, with the need for family planning to be addressed in that context; and the resistance to the 1970's demographic rationale of reproductive policies. These two legacies narrowed the base of the political debate and decreased the chances for policy change. Still, the 1990's international debate on reproductive policies, and the emergence of the concept of reproductive rights, provided pro-choice groups, particularly women activists, with a renewed political discourse to address change. The debate in the city highlighted the essential arguments that would be reproduced in the National Congress on the occasion of the debate of the federal law, reflecting a new scale shifting to the upper [national] scale.

The 2001 Financial Crisis and a New Social Agenda: Reframing the Reproductive Debate at the National Scale

The period following the financial crisis early in the new millennium reflected the new environment in which the nationalization of the reproductive rights debate took place. The financial crisis of 2001-2002 was accompanied by increased poverty, female poverty in particular. The rise in poverty contributed to a major political crisis, which culminated in the installation of a new government before the election of President Néstor Kirchner in 2003. Provisional President Eduardo Duhalde appointed an international health expert, Dr. Ginés González García, who staged an aggressive campaign to implement family planning, maternal health care and the distribution of generic drugs to poverty-stricken families. González García's policy priorities were reducing child and maternal mortality, and providing access to contraception services. His appointment as Health Minister was crucial to the advance of this issue in the political agenda. During the Senate session in which the law was finally passed, the presence of the Minister of Health and the first lady, Hilda Duhalde, helped convince many Senators to adopt the law. In an interview conducted with the former Vice-Minister of Health and current MP for the government party, Dr. Graciela Rosso, she confirmed the relevance of executive support to pass the law, in particular that of the Health Minister Ginés González García and the first lady Hilda Duhalde (Interview 22).

The law, entitled "*Programa Nacional de Salud Sexual y Procreación Responsable*" was passed in October 2002, and is part of a World Bank programme with funding of \$750 million (US). The Provincial-Maternal-Child Health Sector Adjustment Loan was an attempt to deal with the consequences of the economic crisis of 2001, and is part of the poverty reduction strategy promoted by multilateral financial institutions. It

has precedents, however, in several provincial laws sanctioned before the national law, and in the implementation of various programs at the provincial and municipal level. The national law aims to address regional disparities in family planning services. Under the Ministry of Health and Environment, the program's goals are to provide contraception services through the public hospitals and health centers, and guarantee contraception coverage through the social health insurance system (*Obras sociales*). It includes free access to contraception and counseling, and is accompanied by human resource training to ensure the programme is effectively implemented. It guarantees the availability of legal abortions in public hospitals for mothers at risk and insane or mentally ill women who have been raped. The law did not legalize abortion, which is still a criminal act in Argentina. Instead, the programme includes the distribution of contraceptives to the entire population without discrimination, provides assistance and support to help implement local programs in all provinces, offers training to health teams, and facilitates the dissemination of sexual health and responsible procreation information. In articles six and seven of the national law (25.673) these elements are included in the *Plan Médico Obligatorio* - PMO, with no differences between the public sector, the social security system and the private sector.

Two important aspects of the new law are: the separation of sexual health from reproductive functions, thereby moving further from the Buenos Aires city law which only addressed responsible parenthood; and the implementation of a comprehensive approach to women's reproductive health that reflects the new international standards. It also includes the involvement of specialized NGO's for monitoring the programme and addressing a gender perspective. The CONDERS (Consortio Nacional de Derechos

Reproductivos y Sexuales) is compounded by FEIM, CLADES and the ‘Foro por los derechos reproductivos y sexuales’, several Argentine NGOs dedicated to the issue.

Parliamentary Debate in the National Congress

The debate in the Buenos Aires city Legislature established the range of acceptable preferences and proposals. A few years later the debate moved to the national scale. In the Chamber of Deputies on April 18, 2001, a modification of law 17.132 was passed to regulate the practice of medicine (objection of conscience). Abortion was excluded as an acceptable choice for women, as anti-abortion positions in the National Congress were stronger than in the Buenos Aires city debate, even among MP’s who actively supported the program. One element that generated a lot of debate, and made it necessary to define the anti-abortion aspect of the law explicitly, was the ‘emergency pill’. For some, the fact that the law did not include the right to abortion contributed to the exclusion of the pill from the methods administered by the national and provincial states.

The debate also reflected the need to make the law acceptable to the Catholic Church, the main opponent of reproductive rights. For example, during her speech, the MP Giannettasio said “It is true that we received a veto from the church and diverse civic groups. [But] we put them together and overall the writings coincided with the inclusion of non-abortive, traditional and reversible methods of contraception”. She continued, “Thanks to this law, the commercialization of the emergency pill will be limited. Even further, thanks to this law many middle-class women who currently have access to the emergency pill through private doctors will not be able buy them in the pharmacies” (11).

There was agreement among the MP's to pass the law if the following criteria were included: contraceptive methods considered to be non-abortive, transitive and reversible; a respect for *patria potestas*, giving the parents the right to intervene in the reproductive health of minors; recognition of the objection of conscience by altering the law that regulates the medical profession; and the respect of principles and ideas of every educative and health institution. (Díaz Colodrero, 12).

Among the anti-abortion positions, traditional maternalist ideas were brought into the debate. For example, the MP Ferrero argued,

“...it was said that through sexual health and responsibility, women will be empowered. In relation to that, I want to express that in my opinion, along with the other members of my bloc, the principle of feminine nature is to be a ‘mother’. Thus, the decision can be made by the woman but we do not forget that we [all women] have maternity in our own nature” (14).

In addition, the demographic rationale was present in the most conservative, though relatively minor, views. In the words of the MP Lix Klett (*Fuerza Republicana Party*), “...this type of anti-natalist policy was functional to the interests of the imperialist interests of the North...The culture of life and the idea that ‘*to govern is to populate*’ is part of our legacy and the building of our nation”. He quoted Isabel Perón’s 1974 decree, warning of depopulation in the developed world. In the same line the MP Disaldi argued,

“Our country, with its natural resources intact and 35,000,000 people, must develop pro-natalist policies rather than anti-natalist policies. In other words, policies to protect the mother and the child such as a dignified family allowance and a state that protects pregnant women and single women who want to have an abortion...” (37)

In response to the conservative groups, MP Carrió spoke as a feminist, arguing,

“We are not talking about the right of the unborn child, we are talking about the girls that cannot live in conditions of extreme poverty, machismo and economic domination of our people...I don’t know any town priest or nun who opposes this norm...do you know anyone who opposes the use of the pill or IUD (intrauterine device) to avoid having 10 children at 21 years old? Those who [oppose this norm] go to mass at 7 PM, those who have everything and cannot explain how they have (only) 3 children if they never used contraception” (16).

In an attempt to extend the perspective on reproductive rights beyond women’s interests, the MP from Mendoza, Zapata Mercader (*Demócrata Party*), mentioned the relevance of responsible fatherhood, and the need to protect young men by providing sex education to the youth. The intervention of MP Barbagelata (*Socialist Party*) reflected the socialist tradition of responsible procreation, and the right of poor families to have family-planning services. In her speech, she mentioned socialist MP’s who defended women’s rights in the National Congress before her, such as Alfredo Palacios, Juan B. Justo, Mario Bravo and Alicia Moreau de Justo.

Senate

In the Senate, the bill was passed in general and in particular, and the vote was in bloc on October 30, 2002, with 63 senators present, seven absent and one on maternity leave. Of the total number of Senators 26 were women, almost 40%. The Senate is often more conservative than the Deputy Chamber. Senators respond directly to the provincial governments, and they tend to be more sensitive to lobbying, something frequently employed by the Catholic Church. The socio-economic context of deepening poverty, however, helped to change opinions in favour of new reproductive policies, as did the increase of women MP’s who contributed to advancing the issue in the National

Congress. In 2001, the new law was passed, and it was the first step in the reproductive rights battle. It would contribute to reducing maternal mortality by providing access to contraception to poor women, and it would open the political debate to sex education and the de-criminalization of abortion. References to poverty and the feminization of poverty appeared in all speeches. For example, MP Baglini (UCR) stated,

“When we see...topics such as contraceptive methods that are reversible, non-abortive and transitional with information about advantages and disadvantages...one can affirm seriously that in this bill there is nothing that attempts to go against any religious beliefs, there is nothing that challenges a Church principle...Here there is no ‘morning after pill’”(4).

In addition, the MP Colombo argued, “In order to prevent what happened in countries like Peru, we explicitly agree that the contraceptive methods are non-abortive, reversible and transitional”.

As noted previously, the first lady Hilda Duhalde’s support for the law was crucial to passage of the bill. Certainly, Mabel Muller, a political ally of Hilda Duhalde in the Senate, made a strong defense of the program, but clearly supported anti-abortion and pro-church positions. In this regard, her speech can be understood in the very narrow perspective of family planning. In relation to the changing political scenario she argued,

“Since 1995, the Deputy Chamber debated and approved a similar bill but unfortunately the Senate never put it into law...most of us (women) defenders and fighters for women, always said and thought that it did not pass the Senate because there were only two or three women in the Chamber. Today, in the Senate, we see more than 20 women and we are going to ensure, along with our male senators that this project of responsible parenthood becomes a law” (4).

She continued, “We, the senators of the *Justicialista* Party, came from a political group that, from its origins, due to our doctrine and actions, has had a commitment to life since

the conception, in all its forms. We started our political life from the hands of Eva Perón, who taught us to stand up for women against discrimination". These new reproductive policies defined in the international arena were interpreted under a revised 'Peronist' framework. Thus Muller argued, "Human rights are expressed as the obligation of the State to guarantee the population the right to health, giving priority to a infant and maternal health, to the condition of the pregnant women, but also helping families decide freely and responsibly their own conformation".

While there are no particular references to gender equality, the emphasis on family planning is significant. For example, Muller argued, "Our country has not confused the right to health with projects aimed to solve the problem of poverty by limiting the number of children of our poor families...this was expressed by the Argentinean Delegation in Cairo (1994), Beijing (1995) and Copenhagen (1995)". She continued,

"Some Latin American countries have implemented these programs for many years and have reduced their maternal mortality rate considerably. An example is Chile, which introduced these types of preventative policies in the 1960's, reducing maternal mortality from 279 cases in 100,000 in 1965 to 27 in 1994. This improvement is related to the reduction of maternal deaths due to unsafe abortion, thanks to the ongoing implementation of programs of responsible procreation"(6).

To differentiate the relationship with the Catholic Church from the official positions of these MP's, Mabel Muller quoted Jean Paul II from 1991, when he stressed the anti-abortion character of the programs in their commitment to the defense of life since the moment of conception.

From the standpoint of the women's movement, however, the law was insufficient, as it did not permit abortion. Thus, the MP Escudero argued, "I know that

feminist organizations are not happy with this law. They think that this is a small step and that we should go further. But the conservative sectors also oppose this law, so, I think that this is the ‘possible’ law. It is a first step and we must approve it today. Since the debate about the changes we must impose starts now”. Adopting a pragmatic point of view, she continued, “I want to send a message to the women of every province. I promised them we were not going to end up with one health system for rich women and another for poor women. From now on, there is only one health service in Argentina”(54).

Senator Eduardo Menem, the brother of former President Carlos Menem, was a new coalition member who supported the law. He changed his previous anti-abortion positions to reflect the statements included in the CEDAW, “[Which] explicitly includes the right to responsible procreation and reproductive health”. Yet he still kept his anti-abortion views, supporting at least one plan for contraception services. Senator Menem continued, “We all know that one way to divide the debate is to put the right to life at risk, and here this is not a matter of debate...I defend the right to life. I respect those who have opposite views. But I defend this law and the right to life since the moment of the conception”(68).

The debate in the National Congress was more technical than that in the legislature of Buenos Aires city, as it was shaped by a predominantly medical view of social problems and concerns. This, however, was key to expanding support beyond the women’s movement, though important issues such as therapeutic abortion and emergency contraception were left out of the public debate. Reflecting the boundaries of the universe of the political discourse, the law only sanctioned a restrictive family planning

programme funded by the World Bank. Nevertheless, the law, and the debate around it, initiated an important battle for the women's movement. While women activists developed their struggle in the legislative arena, their conservative opponents went to the courts to stop implementation of the law. The strategy of the conservative groups was to challenge every aspect of reproductive rights in the courts and, as a result, emergency contraception and, more recently, therapeutic (or legal) abortion were debated in both the provincial and national courts.

The Political Escalation of the Conflict: Social Actors, the Conservative Backlash and the Courts

Despite its limits on legalized abortion, the new 2003 reproductive law contributed to reframe the issue in the public agenda, and raised unprecedented public interest. Indeed, the government's attention to the issue, and its constant mention and discussion in the media—even during the 2005 electoral Buenos Aires city campaign—helped create a significant shift in public opinion. The increasing involvement of the pro-choice and fetus-rights groups in the Argentinean debate, and the ideological change in the national government, also caused an important change in the political and social environment regarding reproductive rights. The conservative backlash to the new reproductive law was swift, however, and though the law may have empowered the women's movement, it also set off a strong conservative backlash against the modernization of gender relations, as developed later in this chapter.

Public support for a new reproductive policy was significant. A national poll conducted in 2006 found that 80% of respondents supported the de-criminalization of abortion in rape cases, and almost 50% in all cases. Comparing data from 2004 and 2006,

the poll revealed that pro-abortion opinion increased from 28% in 2004 to 48% in 2006. In addition, absolute anti-abortion positions (people who do not support abortion under any circumstances) fell from 23% in 2004 to 13% in 2006. According to Gerardo Adrogué, Director of Knak (the polling firm), there are no important differences in the polls with respect to the sex and age of the respondents, but there are evident class and regional differences among them. Clearly, support for pro-choice declines outside metropolitan Buenos Aires. Yet, eight out of ten respondents in general also expressed interest in the topic in social conversations with family and friends, which could reflect a shifting of their views and ideals. The study concluded that there is an increasing demand for sexual rights and individual liberties (Clarín, 30/11/06). In addition, it can be said that this reflects the fact that abortion and reproductive rights have become an important social issue. Previous studies in 2003, conducted by FEIM and CELS in Buenos Aires city, established that people support providing contraceptive services in the following circumstances: 100% in the case of HIV/AIDS prevention, 99% for the prevention of teenage pregnancy, 99% to facilitate women's reproductive choices, and 98% to provide contraception in public hospitals and health centers and to prevent unwanted pregnancies.

Despite this shift in public opinion, the conservatives continued to be highly organized, and decided to go to court to stop any changes in reproductive policies. As a result, sexual health and reproduction were discussed publicly in 2002 and 2003. First, the national law on 'Sexual Health and Responsible Procreation' (25.673/02) was challenged in the Argentinean Courts. In 2002, the Catholic organization, "*Mujeres por la Vida*" (Pro-Life Women), presented a suit in Córdoba province to stop implementation of the law. The federal judge, Garzón de Lascano from Córdoba Province, accepted the

argument presented by the religious NGO, but the Ministry of Health immediately appealed the decision to the Federal Chamber of Justice. The Córdoba decision was rejected by the Chamber, and the position of the national state in implementing the law was ratified.

Several specific aspects of the new law (2003) provided openings for conservative backlash, and this was led in most cases by social activists representing pro-family and catholic groups, and by the Catholic church itself. One highly publicized case addressed the issue of emergency contraception. Unlike the Buenos Aires position, the national law defined ‘acceptable’ contraceptive methods, and one result of this was that the administration of methods such as IUD or the emergency pill must be determined by ANMAT. As explained in the previous section, several MP’s and Senators claimed that the emergency pill was abortive, and, during debate in the National Congress, they explicitly opposed this method, which was in accord with the position of the Vatican. After the law was passed and implemented, the emergency pill case went to the courts. On March 5, 2002, the Supreme Court prohibited the commercialization of emergency contraception because it was considered abortive, since human life starts with fertilization of the ovum. The verdict maintained that, “...any method that limits the fertilization should be considered abortive”. The intervention of the Federal Supreme Court of Justice was due to the exceptional submission (*recurso extraordinario*) of an NGO based in Córdoba province called ‘El Portal de Belén’, whose main goal is to provide social support to single mothers in that province. In its judicial prosecution, the NGO got a favorable verdict in the first judicial stage, but the National Ministry of Health appealed to the Federal Supreme Court. Though the Supreme Court did not agree with the position

of the Ministry of Health, the NGO's submission was unsuccessful because the verdict used the commercial name of the drug (IMEDIAT), which had been replaced by another drug with a different name early in 2000.

Several women's organizations opposed the judicial ruling, with the "Catholics for Free Choice" (*Católicas por el Derecho a Decidir*) in Córdoba province playing a particularly important role in denouncing the Vatican's positions against women's rights. They referred to the resolutions and recommendations of the World Health Organization, as well the International Convention of Children's Rights and CEDAW, both of which had been in the Argentinean Constitution since 1994. At the same time, public opinion polls conducted by the IPSM (*Instituto Político y Social de la Mujer*), a Feminist NGO based in Buenos Aires city, found that citizens had a positive opinion of emergency contraception (the morning after pill). Of the total respondents, 71% agreed with its free distribution in public hospitals and health centers, and its coverage under the *obras sociales* system.

Judicial opposition to the new family planning laws in 2002 and 2003 was not well received by the people. A survey conducted by FEIM and CELS in 2003 revealed that most of the respondents disagreed with the judges who had denied the implementation of the law and reproductive rights. In particular, the decision of the judge from Córdoba to prohibit the commercialization of emergency contraception and deny implementation of the law was strongly rejected, with 97% opposing her decision. It should be noted, however, that most people also disagreed with legalizing abortion for some cases, such as when the mother and her family do not have the economic resources

to raise a child (89%), when a woman gets pregnant because of the failure of the contraceptive methods (66%), or when the woman does not want to have the child (61%).

Despite increasing public support for the use of contraception and implementation of the program, in 2006 a group of MP's submitted a new bill to the National Congress that called for the administration of emergency contraception through the public health system. The bill aimed to make it compulsory for public hospitals, "...to provide information, implement and diffuse programs and give counseling about the use of emergency contraception. Pro-life groups clearly oppose the use of the 'morning after pill', which is widely used in rape cases (see Clarín, 16/11/2006). While it is provided without restrictions in Buenos Aires city, women legislators agreed with the need to approve another law to make providing access to the emergency pill compulsory in all provinces. Alicia Tate, the MP for Santa Fe province, and author of the bill, argued that she based her assertions on scientific analysis that confirms that emergency contraception is not abortive, and is only used in exceptional cases such as rape. The Director of Bioethics of the Catholic Argentinean University, a pro-life group, argued that if the woman were in the process of ovulation, the pill would continue acting and cause a chemical abortion. He argued that the State could not introduce laws that contemplate chemical abortion because the right to life is defended in the Constitution, invoking the Pact of San Jose de Costa Rica. So far, however, the bill on emergency contraception has never been debated in the National Congress.

Health Experts, the Women's Movement, and the Catholic Church

While the women's movement has been important in shaping the discourse, the alliance with the newly appointed Minister of Health was critical to advancing the issue in public debate at the national scale. The role of the medical profession in this case is ambiguous. Two issues came up with respect to doctors objecting to performing abortion services in the public health system. According to some interviewees, the medical profession is empowered to provide not only medical advice to patients, but moral guidance as well (Interview 22). According to others, physicians are concerned about malpractice suits and accusations. The hierarchical organization of the health system does not allow doctors' complete freedom to decide on procedures, and their options are further limited by directives provided by the provincial Health Ministers (Interview 24).

CEDES (2004) has examined the role of the medical profession in current reproductive policies, and the studies suggest that doctors have kept a low profile on this matter. There has been little involvement from the medical associations, though the 'objection of conscience' has become a major obstacle to providing the services in many public hospitals. In several cases the head of a gynecological service has invoked personal moral values against abortion and contraception, and this has limited the delivery of reproductive health services to patients. This issue was also part of an extended parliamentary debate when the law was approved on the local scale (Buenos Aires city legislature and provincial legislatures), and in the National Congress. It was also the reason for a modification in the law that regulates the practice of the medical profession, as was explained earlier in this chapter.

Despite the lack of public involvement by physicians, some polls of gynecological services personnel in Buenos Aires city hospitals found that 80% of those interviewed

agreed with free distribution of contraceptive services, and 65% considered abortion as the most important problem of reproductive health. Moreover, 79% of respondents considered the decriminalization of abortion as the likely solution to the problem of high maternal mortality rate, and 74% believed that public hospitals should provide all the abortion services, which are currently legal in the country.

The medical profession played an important role in developments in maternal health policies in the ninetieth and early twentieth centuries, when they contributed to shaping a pro-natalist and eugenic discourse, and supported the creation of the public health and social assistance systems. More currently, the medical profession has been less involved in framing the debate, probably due to the increasing residual role of the public sector in health prevention and delivery.

Recently, however, an increasing number of doctors with experience in the public health sectors have entered politics. Some like the Health Minister, as health experts in the bureaucracy, and others as representatives in the National Congress. In the view of a woman MP and promoter of one of the bills to regulate therapeutic abortion, ‘they are contributing greatly to framing the debate on abortion’ (Interview 25). In this regard, links between women’s activists and health experts are crucial to advancing the issue. For example, the *Foro por los Derechos reproductivos de la Mujer (Forum for Women’s Reproductive Rights)*, headed by Dr. Mabel Bianco and supported by health experts in the field of reproduction, is perhaps the most relevant women’s NGO that advocates on reproductive rights in Argentina. Mabel Bianco was a public official during the Government of Raul Alfonsín.

After the severe financial crisis of 2001, the links between the women's movement and the new Minister of Health, Ginés Gonzalez Garcia, were crucial to shifting reproductive policies. As explained earlier, with the public support of President Duhalde—and in the context of an emergency situation due to the financial crisis—Gonzalez Garcia's appointment was critical to convincing the official legislators. This was particularly true of the Peronist Senators, who were sensitive to pressure from Catholic Bishops and conservative groups, and thus very reluctant to liberalize reproductive policies. Due to his technical expertise, and encouraged by the international discourse on reproductive rights and health, Gonzalez García was essential in penetrating the bureaucratic structure of the state with this renewed discourse.

The Minister of Health developed a vigorous campaign to spread reproductive rights, expanding it during the Kirchner's government. These events increased the tension between the national government and the Catholic church, which was very high during 2006, as reflected in the substantial media coverage. For example, Bishop Baseotto widened the rift between the Government and the Vatican when he sent a letter to Health Minister Ginés Gonzalez Garcia, on February 17, 2005 stating that those who, "...offend the little ones should have a millstone placed around their neck and be cast into the sea". This sentiment—a biblical reference—was meant to express the bishop's firm opposition to Health Ministry policies favoring the promotion of contraceptive distribution, and to the Minister's statements calling for the decriminalization of abortion.

For the Government, the bishop's comments were too reminiscent of the notorious "death flights" used by the military government of the late 1970's and early 1980's to dispose of leftist guerillas and alleged sympathizers. The Government called for the

bishop's immediate removal as Chaplain General, a position he was appointed to by the Vatican. The Vatican refused, and the Government unilaterally removed its recognition of Baseotto as Chaplain General, which prompted various church authorities to make allegations of a campaign against Catholics.⁶⁹ In spite of Basseotto's harsh declarations, the Minister of Health announced an anti-abortion campaign to fight against maternal mortality due to unsafe abortion. As part of the Federal programme of Sexual Health and Responsible Procreation, the Minister of Health announced a massive distribution of contraceptives, including 25 million condoms, 7.5 million oral and injective contraceptives and IUDs for 450,000 women. In addition, the government committed to developing a dissemination campaign through radio, newspapers and TV in order to avoid unwanted pregnancies.

The Catholic church directs the fetus-rights coalition, and its contribution to the pro-life discourse is an important aspect of the conservative backlash on reproductive rights. In addition, the church is internationally organized, and constitutes a powerful lobby group with strong connections to governments and private conservative pro-family groups like Human Life International, an international organization with a significant presence in Latin America (*Vida Humana Internacional*). Indeed, the official discourse of the Catholic church became transnationalized and fundamentalist in character (Haussman 2005).

In an edition of the publication *Vida Humana*, the priest Juan C. Sanahuja argued that the different international conferences attempted to impose the cultural imperialism

⁶⁹ In an interview with the Sunday Magazine of Clarín 'Revista VIVA', Ginés was asked what he thought when he read the letter of Basseotto. He ironically responded "I thought of improving my swimming style" (24/07/2005)

of the United States through the concept of reproductive rights. To him, the concept is an euphemism for hidden imperialism of anti-natalist policies. The totalitarian inclination of northern countries is understood as a new cold war between the North and the South. Sanahuja sees Argentina as a pro-abortion country encouraging the use of IUD's and emergency contraception, which for the Church constitutes methods of chemical abortion. In particular, the Church denounced the IFFP (International Federation for Family Planning), which is one of the international institutions that promote the comprehensive use of contraception. The 'cultural imperialism' of northern countries promoting 'sex' goes against the traditional family values that Latin American societies deeply identify with. Finally, Sanahuja denounced what he calls a 'Contraceptive Totalitarianism' in the institutionalized manner of implementing the Program, claiming that such activities as monitoring by women's NGO's, the responsibility of public hospitals for developing family planning and ensuring reproductive rights were ways to centralize reproductive decisions in the state and public spheres, and force them on married couples⁷⁰.

It is also argued that the main goal of international organizations and pro-abortion governments is to reduce the number of poor by 'eliminating' them. Furthermore, they compare this with the 'final solution' perpetrated by the Nazi state. The Church argued that these methods of contraception also increased the risks of STD's such as HIV, because they encourage promiscuity among the youth, and because they cause disruption in the Christian family. In the same argumentative discourse, the National Secretariat for the Family (*Secretariado Nacional para la Familia*), a fetus-rights NGO, claimed that the

⁷⁰ The content of this statement is originally published in Spanish and it can be viewed at the 'Vida Humana Internacional' website: www.vidahumana.org

use of any type of contraception increases a woman's risk of getting diseases such as cancer, and promotes promiscuous relationships and the transmission of STD's.

What is relevant about the transnationalized Catholic Church's positions on abortion is that it views the problem as not only abortion, but contraception as well. They believe that access to contraception 'opens the door' to abortion and favors the interests of international organizations and laboratories committed to developing '*chemical warfare*'. They argue that the national campaign of responsible parenthood avoids presenting safer lifestyles, such as promoting the benefits of stable families. They also criticize the state's powerlessness to free people from poverty, choosing instead to believe that the state is trying to eliminate the poor (Clarín, 29/04/05).

Overall, the main strategy of the fetus-rights coalition involve going beyond the religious character of the debate by questioning moral and family values, constitutional rights such as the right to life, and political arguments denouncing the imperialist character of demographic policies to reduce population. The Church based its arguments on the Pact of San Jose de Costa Rica, which establishes that, "...every person has the right that his/her life should be respected. The right is protected by law and, in general, from the time of the conception". The fact that the Pact of San Jose de Costa Rica is in the Argentinean Constitution is a main argument that the Catholic Church and associated NGO's used to pressure politicians not to de-criminalize abortion.

On the other side of the spectrum, 'Catholics for free choice' a transnational group of Catholic women not aligned with the official Catholic Church—started in the US, with branches in Canada and Latin America—contributed greatly to the response to conservative opinion. According to them, the Catholic Church used 'pseudo-scientific'

arguments by claiming that the use of the birth control pill and chemical contraceptives in general might cause diseases among women. Some NGO's, like Catholics for Free Choice, changed strategies because of their experiences during the divorce debate and the views of the Catholic church in Argentina. A member of this organization argued that,

“During the 1980's, the Catholic Church lost the debate based on moral or religious beliefs. Clearly, it was impossible to extend the prohibition of civil or legal divorce to all members of the society, including the non-Catholics. Rather, in the current debate on abortion and reproductive rights, the Catholic Church uses pseudo-legal and constitutional and/or pseudo-scientific arguments (e.g. all methods of contraception are abortive) in order to extend its view to all the society” (Interview 12).

It has been noted that the evaluation that the Catholic Church makes of the different methods of contraception contains various inconsistencies. For example, the church opposes the use of any form of modern and ‘artificial’ contraception, but has accepted and sometimes encouraged the use of ‘traditional’, ‘non-artificial’ and ‘non-abortive’ methods of contraception, like the Billings ovulation method and other ‘natural’ means of fertility regulation. It is not clear in what circumstances different contraception methods and techniques are considered ‘abortive’ or acceptable.

Political tension between the Government and the Catholic Church escalated. Early in 2006, a committee of experts from the Ministry of Justice drafted a bill to reform the penal code that included a change to the controversial article 86 on abortion. The change included, “...woman will not be punished when abortion is practiced with her consent and within the three first months of pregnancy, if the circumstances are excusable” (La Nación, 24/03/07). The media dissemination of this news generated strong reaction from conservative groups, and prompted the Minister of the Interior and President Kirchner's voice speaker Aníbal Fernández, to declare that the national

government did not ‘unilaterally’ promote the decriminalization of abortion. He also affirmed, “This is, however, an issue that the [Argentinean] society must debate” (La Nación, 24/03/07).⁷¹

Reproductive Rights Issues: Judicial Cases and Public Controversy

Three distinct conflicts which resulted from the early discussion on the procreation programme have been debated extensively in the media and the courts, namely: teen vs. parental rights; contraceptive surgery (*tubal ligation*) (which prompted a law to regulate the practice in the public sector in 2006), and therapeutic abortion, the legal form of abortion in the country. The following analysis of several relevant cases, which ended in the courts will highlight the nature of the debate, and clarify the different positions. As a defensive strategy, ‘pro-life’ groups mainly used the courts to stop and/or veto decisions made in reproductive policies, while women’s activists and their allies relied on the legislature as their major arena to promote policy change.

Teen vs. Parental Rights

With respect to these rights, a key topic was the distribution of contraception to teenagers. This prompted a legal battle based on ‘patria potestas’ (the legal right of parents over minors) and legal action was pursued at the local and provincial levels. In the city of Buenos Aires, reproductive law 418, which was challenged in the courts,

⁷¹ In order to reduce the level of political tension at the beginning of 2007, the interest of the Church’s authorities –headed by Cardinal Jorge Bergoglio- in order to alleviate the tension led them to avoid the discussion of contraception in the last Episcopal Conference held in Buenos Aires in March of 2007. Instead, the Church’s authorities preferred to focus its internal debate on drug abuse and human trafficking. (Clarín, 18/03/07)

guaranteed access to information about reproductive rights and access to contraceptive methods in public with no age restriction. On March 2, 2002, in response to legal actions by the NGO ‘Movimiento Pro-Vida’, civil judge Graciela Gonzalez Echeverría argued that the law was unconstitutional because it violated the *patria potestas*. In her ruling, she said the law tried to impose a pattern of sex education on the youth in the absence of their parents. This caused a declaration to the Buenos Aires city legislature reaffirming the defense of the new law, and the right of all individuals to have access to reproductive rights (2002-09-19).

Similarly, in the province of Buenos Aires a group of married catholic couples presented a legal action protesting the state’s intervention against the practice of allowing only the family the right to decide on the sex education and reproductive decisions of minors. Again, they invoked the *patria potestas*, and argued that the violation of the constitutional right of the parents was in opposition to the International Convention of Children’s Rights. The Chamber of Justice (2nd judicial stage) rejected this interpretation. In its verdict, the Chamber argued that the state tries to act with the families in a coordinated way, and not invade the private sphere of their lives. The law does not attempt to impose a particular view of sex education and it does not exclude the parents from taking part in that education, and this was interpreted to mean that parents must give their consent for their children to receive the information. This interpretation has been questioned by the women’s movement and pro-choice groups, which have invoked the International Convention on Children’s Rights to stress the rights of minors to receive sex information from sources outside the family. For example, they affirmed that the state—through the school system—has the responsibility to inform children of

their rights, including the rights related to their sex life. State obligation versus family privacy has been one of the most critical points in the debate, as explained in previous sections.

An interesting case took place in March of 2002, when an eighteen year old girl—and mother of a two year old child—was authorized to use a contraception method (IUD). In the decision, the judge agreed that it was the woman's right to raise her child and to have access to opportunities to develop other capabilities such as work or study. The right to responsible procreation was invoked for the woman's health and the welfare of her family. The judge referred to the Convention of Children's Rights, which affirms that children have the same rights as adults, as well as CEDAW and San Jose de Costa Rica. All these human rights instruments have been included in the Argentinean Constitution since 1994.

Contraceptive Surgery (Tubal Ligation)

Law 17132, which regulates the practice of medicine, prohibited tubal ligation, though it was regularly practiced in private clinics at an estimated average cost of \$1,000 US per surgery (Human Rights Watch 2005). During the 1990's, the provinces in Patagonia were pioneers in regulating and legalizing this practice. In 2006 a new law was introduced guaranteeing the provision of this service in public hospitals throughout the entire country. The *Frente Para la Victoria* (Kirchner's political party) introduced the bill in the National Congress, and it passed after less than five hours of debate, led by the Minister of Health, Ginés Gonzalez Garcia. The law allows free tubal ligation surgeries to be performed in public hospitals and '*obras sociales*'. According to the law, any woman 21

years of age or older can receive the procedure without previous legal authorization or the approval of her partner, and without any specific medical recommendations. Only those declared legally not responsible and minors require legal authorization to have the procedure. As in the original programme of Responsible Procreation, this new law invokes the ‘objection of conscience’ of the right of physicians. In 2002, however, it was established that objection of conscience must be applied on an individual, rather than institutional, basis. Some opponents in the national congress attempted to set a minimum number of children authorized to receive the procedure, as well as a minimum age. These restrictions were not approved, however, and the law was established without further specifications.

Therapeutic or Eugenic Abortion

The final battle was over therapeutic abortion or legal abortion, and the institutional barriers to the practice. In 2006 there were two relevant cases debated in the courts. In the first case, a 19 year old mentally handicapped woman was raped by her uncle. The victim’s mother asked permission to have a legal abortion performed in the public hospital. The prosecutor in charge of the investigation of the rape case notified the Judge that an abortion was going to be performed and asked for it to be stopped. The Chamber of Appellations ratified the decision, but the Provincial Supreme Court ultimately authorized the abortion. After the legal battle, the doctors at the Hospital Jose de San Martin from La Plata refused to perform the abortion, arguing ethical concerns given the advanced stage of the pregnancy (20 weeks). With the logistical and financial support of women’s NGO’s—particularly the ‘National Campaign for the right to a legal, safe and

free abortion’—the abortion was finally performed in secret at a private clinic . The case received a great amount of media attention, and conservative groups attempted to criminalize the action, without success.

A second case dealt with a 25 year old mentally handicapped woman who was raped by an unidentified man. Her medical condition was very risky, as she was taking special drugs and interrupting the medication could have caused her death. Clearly, the viability of this case was twofold: The law protected her because she was mentally handicapped, which is considered in the concept of ‘eugenic abortion’, and a compassionate case of abortion had to be raised since the woman’s life was at risk. The Supreme Court of Mendoza province gave authorization for the abortion in the public hospital Lagomaggiore, and the doctors performed the procedure despite threats from pro-life groups.

The use of harassment by ‘pro-life’ groups has increased recently as a consequence of the integration of these groups with allies in other countries, especially in the USA. In a recent event, without authorization a group of women entered the hospital room of a 14 year old girl who had been raped, and was going to have an abortion; they attempted to convince her to continue the pregnancy. Such harassment is similar to the actions of US pro-life groups, who approach women to convince them not to have an abortion, and/or accuse doctors and hospitals of ‘killing babies’ (Crítica de Argentina, 09/19/08).

Another pertinent case occurred in 2007, when a 14 year old girl was raped in Mar del Plata. The judge gave authorization for an abortion after considering a medical report, which stated that the girl might be at risk of severe psychiatric pathology. The

judicial decision was taken based on the medical report of the Bioethical committee of the private community Hospital of Mar del Plata, which argued that the girl might try to do the abortion herself. The report also mentioned the psychological consequences of having a child in an incestuous relationship, since her rapist was her stepfather and the biological father of her stepsisters. The judge also based the decision on the definition of 'health', provided by the WHO in its 1946 Constitution as, '...a completed stage of physical, mental, spiritual, social and emotional wellbeing and not only to the existence of affections or mental or physical diseases' (HWO). The constitutional debate over therapeutic abortion in this case was according to different opinions of Article 86 of the Penal Code. On one hand, some experts cited the inconsistencies of Article 86 (as described earlier in this chapter). On the other hand, others noted that the judge had adopted an open and modern interpretation of the code. The case was dismissed since the girl suffered a natural abortion, but the debate in the media was very important. The judicial decision of allowing abortion in the case of rape of a mentally healthy woman was unprecedented.

The increasing involvement of the courts by conservative groups aiming to stop abortion procedures established in the Argentine penal code, lead public officials to take action to avoid the judicialization of reproductive rights in order to protect women. As a result, the Minister of Health of Buenos Aires Province created a formal procedure to secure therapeutic abortion when the medical condition of the patient is at risk. The new procedure requires an expert committee (comprised of interdisciplinary professionals) to decide whether an abortion is necessary within five days, without the need to involve the courts. It also requires the state to provide the woman with psychological assistance, and

to allow complete disclosure in the case of mentally handicapped women, which requires the agreement of the legal representative. In addition, it develops procedures to assist victims of sexual violence, such as the administration of drugs to prevent the transmission of HIV, and emergency contraception (La Nación, 24/03/07).

Buenos Aires city has also developed a procedure to avoid the judicialization of abortion cases, and guarantee that they are performed in a timely manner. In addition, two bills were submitted to the National Congress intended to establish a common national procedure in public hospitals, and avoid the judicialization of therapeutic abortion. One bill was submitted by MP Augusburger, a representative of the Socialist Party from Santa Fe province, and the other by MP Juliana Marino, a representative of the president's party (*Frente para la Victoria*) from Buenos Aires city. The bills had similarities, including the informed consent of the patient for the practice, and stipulation of the amount of time practitioners have to perform the abortion on a patient whose life is at risk. As well, the risk must be clearly established with the full knowledge and understanding of the patient. This process attempts to provide a regulatory framework, which allows physicians to act rapidly, without having to go to the courts for judicial authorization. According to the legal system in Argentina, doctors do not actually need legal authorization to perform this practice, since it is included in the penal code (Art. 86). Regardless, physicians' fear being accused of *mala praxis* acts against women's rights to have an abortion under legal and safe conditions. Currently the bill is under debate in the Deputy Chamber.

The analysis of these three court cases reflects the significance and visibility of the issue in Argentinean society as a result of the advances in reproductive rights. They also reveal how conservative groups opposed reproductive rights, and attempted to ban

legislative gains using the courts, in the case of therapeutic abortion for example. In addition, several new steps were taken in the legislative arena, such as the case for contraception surgery. Overall, important gains were made due to a change in the universe of political discourse, which made the public and the political elite more supportive of reproductive rights. Still, the transnationalization of the conservative groups and their coordinated actions hindered the progressive's attempts to advance the decriminalization of abortion.

Conclusions

This chapter focused on the struggles and debates over reproductive rights that occurred in Argentina as a result of the opportunities provided by the change in the national government (1999), and mobilization at the sub-national, city scale. It argued that the debates effectively challenged the conservative Argentinean gender regime by framing reproductive rights in a new way. While these attempts to redefine Argentina's reproductive policies occurred in a multiscalar world, the sub-national scale (Buenos Aires city) provided the first political opportunity to advance debate on reproductive rights, by adopting the international standards of Cairo (1994).

The city of Buenos Aires provides a decisive example of the multiscalar politics of reproductive rights, and the relevance of sub-national scales in challenging conservative gender regimes. Due to the historical centrality of Buenos Aires city (as explained in chapter one), it is an important site of political discussion and disagreement around reproductive rights. The multiscalar nature of the policy offers opportunities for policy adoption at the city government level, and also for 'jumping across scales'.

Global debates were brought into the national scale, contributing to the repositioning of many diverse groups around reproductive rights (as developed in chapter four). Yet, sub-national women's activism—empowered by the progressive politics of the city government since 1996—was critical to the advance of reproductive rights. Moreover, the legislature was the privileged arena of women's activists—whose numbers increased as a result of the electoral quota adoption—and their allies in promoting policy change. Due to the political centrality of Buenos Aires city (both the city and national governments in the same location), debates were easily translated into national politics, with the mass media playing an important role.

While debates conducted on the Buenos Aires city scale contributed to a more open environment to discuss women's reproductive rights, the political change in the national government and the economic crisis of 2001 were critical to advancing reproductive rights on the national scale. Though discussion in the National Congress did address the different perspectives on biological reproduction that have dominated the issue in Argentina and elsewhere (civil and social rights, demography and health) the need to address reproductive health for poor women who lack access to family-planning services dominated the debates. The impoverishment and inequality resulting from the 2001 financial crisis provided a critical opportunity to raise this issue in the national arena. Moreover, the medicalization of abortion and contraception helped to frame women's demands in an acceptable manner.

The outcomes of these public debates and resolutions highlight important patterns of continuity within change. Indeed, the new universe of political discourse was a combination of the new dimensions of the global discussion on reproductive rights, and

the domestic legacies related to the predominance of maternalism and traditional family values. The parliamentary debates reflected the critical use of 'maternal mortality' as a health indicator, and how to deal with it to improve women's living conditions. Despite the relevance of health issues (also framed in the international arena) other perspectives were also under debate, such as demography and, more importantly, political maternalism. In the context of the persistence of traditional views on reproductive policies, new perspectives on reproductive rights developed in international debates were added to the universe of political discourse.

As a result of these changes, conservatives who opposed reproductive rights used many of the institutional mechanisms available to them. As a defensive strategy, self-denominated pro-life groups went to the courts to stop and/or ban decisions made in reproductive policies. In particular, the judicialization of therapeutic abortion was a deliberate strategy to stop the practice in public hospitals, even in cases authorized by the federal penal code. Due to these judicial interventions, several initiatives were proposed by women MP's in the national congress, as well as in the legislature of Buenos Aires city. These bills attempted to enforce the practice of abortion in public hospitals by formalizing procedures that doctors and hospitals must follow in specific cases, such as rape victims', and when a woman's health is at risk if a pregnancy continues. The bills are still a matter of debate in the legislatures, and changes have not yet been made.

The 1990's was a period of increased production of global norms related to women's rights. The Argentinean national state was involved in constructing global norms that shaped new discourses on biological reproduction, as were those who opposed the advance of reproductive rights, such as the Catholic Church. Yet, sub-national

struggles—in particular in the city of Buenos Aires—contributed to frame women's discourses and challenge the conservative gender regime. During the 1990's, the Argentinean national state resisted pressures from below. Nevertheless, as the social/economic and political scenario changed after the 2001 crisis, women's discourses found resonance at the national scale.

Table 5
Federal and Provincial Laws on Reproductive Health
Type of Norm and Year
Argentina

Jurisdiction	Norm	Year
Federal	Law 25673	2002
Buenos Aires city	Law 418	2000
Buenos Aires Province	Law 13063	2003
Córdoba	Law 8535	1996
Corrientes	Law 5146	1996
Chaco	Law 4276	1996
Chubut	Law 4545	1999
Entre Ríos	Law 9501	2003
Jujuy	Law 5133	1999
La Pampa	Law 1363	1991
La Rioja	Law 7049	2000
Mendoza	Law 6433	1996
Misiones	Decree 92	1998
Neuquén	Law 2222	1997
Río Negro	Law 3059/	1996/2000
San Luis	Law 5344	2002
Santa Fe	Law 11888	2001
Tucumán	Law 6523	1994
Tierra del Fuego	Law 509	2000

Source: Salud y derechos reproductivos en Argentina: Salud pública y derechos humanos.
 In *Notas Informativas* No 2. Buenos Aires, Junio 2003

Chapter Six

Conclusions

Challenging a Conservative Gender Regime: Women's Empowerment and the Politics of Scale

*Birth control to avoid abortion, legal abortion to avoid death (National Campaign for the legal, safe and free abortion).*⁷²

This thesis presented an account of the causes of a gender regime change in Argentina. It argues that the politics of reproductive rights developed after democratization is a key to a gender regime. The main argument proposes that changes in the area of biological reproduction signify a break from the traditional conservative gender regime. Though important vestiges of the old regime persist, new policies of birth control have been adopted which represent a clear departure from the previous regime. This process of gender policy and regime change is occurring in a multi-scalar world, highlighting the relevance of international, national and sub-national scales. The transformation of the gender regime is the result of events occurring at all these scales, where the strategic use of openings in political opportunity structures, and the women's movement's effective framing of the issues were crucial to promoting change. Thus, to fully understand changes in reproductive policies this thesis examined the role of the women's movement—as empowered by international developments on reproductive health and rights—in framing the debate at different scales.

⁷²“Anticonceptivos para no abortar, aborto legal para no morir” (Campaña Nacional por el aborto legal, seguro y gratuito)

The thesis critically engaged with gendered welfare regime theory in order to position Argentina in a comparative framework. Building on the literature of welfare and gender regimes in North America and Western Europe, it analyzes the development of the current changing dynamics in other Latin American countries and/or conservative familial gender regimes. The concept of gender regime was used to explain the critical relationship between social and biological reproduction, and its implications for women and gender (in)equality. It argued that in Latin America, reproductive rights (or the lack thereof) constitute an important component of the Latin American gender regimes. The implications of biological reproduction, and the paid, unpaid and informal work of women in development contexts, suggested that Argentina has had a conservative gender regime.

The roots of the Argentinean gender regime resembled unstable Bismarckian welfare regimes, such as those in Southern Europe and Latin America. This is particularly true in the southern cone, where the most developed welfare regimes of Latin America are found. The significant characteristic of these regimes is the particular politico-institutional dynamic in which they operate, marked by the instability of the political and state institutions, and the fragmentation of previous welfare regimes. The long history of authoritarianism contributed to early hybridization of these already damaged regimes. As was suggested in chapter one, due to the intermittent character of democratic political regimes, the formation and consolidation of the Argentinean welfare regime has been affected by political polarization and institutional instability, resulting in limited citizenship and inequity of the welfare regime. The instability of political and state institutions is seen as the main cause of the fragmentation of these regimes. In addition,

as a result of the economic reforms of the 1990's, fragmentation and stratification increased, with particular consequences from a gender perspective. As this thesis argued, changes in the gender regime reflect in part the destabilization of the male breadwinner family form that occurred with the implementation of SAP's in the 1990's, and the advance of women in national politics. This has been particularly true since the adoption of the quota law in 1991, which brought a significant number of women into the legislative arena, opening the political opportunity structure.

The destabilization of the male breadwinner family form was the result of a rapid influx of women into the labour market. Women from low income and low-middle income groups were required to enter the labour market to compensate for lost male wages. Along with changes in family composition (e.g. female heads of households) and women's rising participation in the labour force, new family support policies were implemented which targeted poor families. This had a downgrading effect on the family allowance system, which had been a pillar of the male breadwinner welfare regime. These transformations in the area of social reproduction have had a strong impact on women, as childcare and parental leaves are either very limited, or nonexistent. Solutions for this, particularly in the 1990's, have come from support for private childcare services, as well as voluntary and community based centers, private domestic workers and interfamilial arrangements. Maternity leaves, however, remain restricted to 90 days, in accordance with the ILO resolutions. During Menem's government (1989-1999) a technocratic agenda based on gender policies and work/family balance policies was adopted, though, it was not successful due to a lack of legitimacy of the policies.

The destabilization of the breadwinner, and the consequences for women revealed important transformations of the gender regime in the 1990's. Yet a critical aspect of Latin American conservative gender regimes is the lack and/or limited provision of reproduction services. In particular, the consequences of the lack of family planning services in the public sector, and the prohibition of abortion, have been evident in the past two decades by the rise in poverty and inequality. The link between social and biological reproduction has been redefined, exposing the pressure that women are under, particularly working mothers from lower and middle- income classes.

Birth Control Policies: Processes and Outcomes

Argentina is a country with a long pro-natalist tradition, which is supported by the strong male breadwinner family form and a lack of reproductive rights. In the case of contraception services, due to a fragmented health sector, decisions about reproduction and access to contraception services were the responsibility of families and individuals, which meant that the poor who relied solely on the public sector did not receive adequate services. Abortion is illegal and regulated by the federal penal code, but the code is subject to different interpretations due to its ambiguous writing, as explained in chapter two. Abortion is only officially permitted in cases of medical necessity and rape, including the presumed rape of mentally handicapped women.

The lack of adequate contraception and abortion services disproportionately affects poorer women, due to the fragmented nature of the health sector. While middle and upper-class women have access to services through the market or the social security system, poor women do not have adequate levels of service. Analysis of these disparities

in social services also exposed regional differences, which are reflected in the uneven indicators of fertility and maternal mortality rates. During the twentieth century these policies have proven resistant to change, maintaining the same maternalist view of reproduction policies. Nevertheless, international developments such as the Cairo Conference on Population and Development (1994), expanded opportunities for Argentinean women activists to pursue an agenda based on gender equality and reproductive rights. In 1995, the first bill to adopt a family planning programme was introduced in the National Congress, giving rise to political and judicial disputes that continue today. These struggles began at the transnational scale, then affected national politics, and finally initiated a process of political mobilization around reproductive rights in the sub-national scales—Buenos Aires city sub-national scale being prominent due to its political relevance.

The ability of the women's movement to frame the politics of reproductive rights in an acceptable way, and the transnational factors that contributed to opening spaces to advocate reproductive rights, are central in this thesis. While advancements in liberalizing abortion are still few, new family planning policies and a renewed discourse on reproductive rights—including abortion and sex education—have become widespread and increasingly supported by the public. Between 2001 and 2007, several policies were adopted at the federal level, including the law on sexual health and responsible parenthood, and contraceptive surgery. Although no changes have been made toward legalizing abortion, several bills have been introduced in the National Congress and the Buenos Aires City Legislature to enforce the practice in public hospitals. As the theory of transnational social movements suggests, political events can extend opportunities to

other actors, even those who oppose transformation. Indeed, permitted (therapeutic) abortion was being debated in the courts while conservative groups tried to undermine decisions passed in the National Congress. The ‘judicialization’ of abortion has emerged as the main strategy that the conservative factions use to stop it.

The analysis of policy and gender regime change highlights two important theoretical dimensions, and analysis of these is critical to understanding current transformations in Argentina. These are, the multiscale politics of reproductive rights (policy change being affected by political events occurring at different scales providing political opportunity structures), and women’s organizing strategies, arenas and discourses. Both these dimensions are critical to understanding change.

Shifting Scales of Political Action around Reproductive Rights

This thesis argued that politics at different scales are challenging the conservative gender regime in Argentina. The scales are interconnected, revealing the multiscale nature of reproductive rights, and how events occurring at the international scale can have an uneven impact on national and sub-national scales.

As chapter four argued, international debates and women’s actions occurred at different scales, making it possible to frame discourses in a new way, and posing important challenges to the old gender regime, particularly its reproductive policies. It is important to note that the influence of developments at the international scale is not entirely new. Argentina’s institutions reflect the efforts to incorporate internationally proclaimed norms into national legislation. As described in chapters two and three, the development of the welfare state in Argentina involved the incorporation of ILO

Conventions that regulate labour relations, including anti-discrimination policies affecting women's participation in the labour market. Globalization has dramatically increased international exposure to international standards, and the emergence of the gender equality regime, composed of norms, rules and conventions, is of particular significance. Even more critical is the global framing of international ideas and discourses on gender equality, and the use that the women's movement has made of them to advance women's rights in the national and sub-national scales. This was evident in reproductive health and rights debates in Argentina.

The new international context of women's rights during the 1990's thus contributed to reshaping the Argentinean paradigm of reproductive policies. Without doubt, the international circumstances provided a new policy environment for women's demands. Both the increasing poverty after structural adjustment policies, and the crisis of the implementation of health sector reforms, contributed significantly to redefining reproduction as a health issue. As well, the need to ensure women's reproductive health has decreased the priority of demographic concerns.

This was associated with changes in domestic politics—including new institutions and regulations—which formed a more favorable political opportunity structure in which to reshape the policy of reproductive health. It allowed for the introduction of a few important changes related to family relations and their link with the state. At the national scale, the spread of a human rights discourse due to democratization provided an institutional framework to justify and expand women's rights as human rights clearly established by the adoption of CEDAW and the subsequent creation of women's policy

machinery. In addition, the implementation of the legal quota in 1991 contributed to the promotion of the issue in the legislative arena.

International norms, however, are not automatically translated into domestic politics. As this thesis argued, they can empower actors who want to use international developments to promote policy change within domestic borders. Similarly, these developments create resistance and backlash from those who oppose reform. The ‘pro-life’ groups also have transnational links, and their activity is relevant at different scales as well. Moreover, national actors and institutions are involved in the international scale not only by promoting transformation, but also by impeding the advance of progressive agendas. Indeed, though the 1990’s saw an increase of global norms that had a positive impact on Argentinean debates and birth control policies, at the same time the national state was active in the international movement to block the advance of a reproductive rights agenda at the global scale. In contrast, while the national state was part of the conservative coalition in the global scale, Argentine women’s groups were involved in coalitions at different scales to advance reproductive rights nationally and locally. In summary, it is not only the women’s movement that plays an important role in the international struggles for women’s rights. Pro-life groups—headed by the Holy See—are also transnationalized, and draw on tactics adopted from other nations, notably the US. They also appeal to international conventions, such as the Rights of the Child, to make their case.

Policy actors operate in different scales, and jump from one scale to another in search of better political opportunities to pursue their interests. This thesis provided two important examples of how actors move upward and downward as they look to expand

the political opportunity structure. The first example (developed in chapter four) focused on how women's groups have made use of the international system of women's rights to expose women's status in the country. Their participation at international conferences—and as informants to the CEDAW Committee—was important when the national state resisted promoting a gender equality agenda in the country. Moreover, the national state's strong opposition against reproductive rights was clearly established in Cairo 1994.

The second example of actors shifting scales is the sub-national opportunity structure that emerged in the city of Buenos Aires as a consequence of “territorial democratization” (discussed in chapter one). As Gibson (2008) suggested, territorial democratization is the granting of rights to citizens that were previously available to other citizens within a national state. The political autonomy of Buenos Aires city, granted in 1996, provided an effective opportunity structure to expand women's rights, empowered not only by the implementation of the quota that allowed an increase in the number of women MP's in the new Legislature, but also by the election of a progressive government which strongly opposed President Menem's social conservatism. Due to the economic and political prominence of Buenos Aires city, and the geographical location of the national government there, these debates were easily nationalized, challenging the Argentinean gender regime. Buenos Aires city is a virtual laboratory of policy innovation, the flow of ideas and the struggles of opposing forces. There are limits there, however, to the advance of reproductive rights—particularly abortion rights. As presented in this thesis, abortion is regulated through the federal penal code, and debate about it has been difficult to extend to the national scale.

Scale shifting—upward and downward—was an important strategy, and it reflects the relevance of the multiscalar nature of reproductive politics in Argentina.

Women's Organizing and Political Discourse

The development of the conservative gender regime in Argentina has had profound effects on the ideologies and organization of the Argentinean women's movement. Despite the early appearance of the suffragist women—liberal and socialist women activists—Argentinean women could not vote until 1949, when Juan and Eva Perón granted this right from above. At the same time, Peronism adversely affected the Argentinean women's movement's ability to form an interclass movement. The emergence of Peronism exposed the division of the women's movement between the middle and upper-class activists (liberals and socialists) and the new Argentine women activists, the followers of Eva and Juan Perón, who rejected previous feminists ideas.

Thus the inclusion of Argentinean women in politics was due to their primary roles as housewives and mothers and, at the same time, it was constrained by this perspective. Women's political participation was originally accepted and later promoted—particularly under Peronism—because of their different gender attributes. Associating women's public activities with their domestic roles was firmly based on the social value of women's reproductive capabilities. This led to the exaltation and protection of motherhood, resulting in a form of political maternalism.

After Peronism, Argentina's political instability increased, and different movements opposed to the military regime emerged. These broader struggles for democratization masked the rise of alternative causes, such as women's rights. In the

early 1970's, while second-wave feminism was growing around the world, Argentinean women were more involved in broader struggles related to democratization and social justice.

With democratization in 1983, new opportunities opened up for the Argentinean women's movement. This thesis introduced the concept of the 'triangle of empowerment' to explain women's organizing. As introduced in chapter one, and developed in chapter three, women's political activism must be studied both inside and outside formal political institutions. Although limited by the bureaucratic weakness of the Argentine state and political disagreements between Menem and the women's movement, particularly in the area of reproductive rights, the creation of the women's policy machinery (CNM) provided the initial opportunities for women to advance gender equality. In contrast, the introduction of the legal quota in 1991 brought a significant number of women into parliament, transforming the legislative arena into an effective venue from which to advance women's rights, and helping create links between women MP's and activists outside formal politics (i.e. women's groups and associations).

Despite ideological divisions due to the traditional fragmentation of the women's movement, women activists developed common issues around reproductive rights. Their cause was actually helped by the economic crisis of 2001, as it increased poverty and exposed women's status related to both health and poverty. Women's organizing crossed national borders, as globalization and transnationalism created opportunities outside the domestic public arena. The emergence of the global gender equality agenda and the regionalization of the women's movement provided opportunities for women's advocacy beyond the national borders. The adoption of international standards after 2001 was a

result of the severe economic crisis, as it increased awareness of the need to expand social welfare in the context of poverty and inequality. Yet, developments since the Cairo Conference on Population and Development had an influence on and contributed to the outcomes of these battles. Thus, in this thesis the importance of the interconnectedness of the different scales of political action (global, national and sub-national) to understanding the process of public policy change is highlighted. The 1994 Cairo Conference advanced a new concept of reproductive health and rights that went beyond the narrow perspective of family planning as it relates to demographic concerns, the paradigm that had dominated population policies in the past. The new concept of reproductive rights attempts to empower women in their reproductive decisions, and ensure they understand that women's health is about more than their maternal functions.

These discourses became significant for the Argentinean women's movement in its attempt to reframe the debate within the domestic context. This required confronting powerful resistance, however, which was bolstered by the historical legacies of the Argentinean reproduction paradigm that was part of the wider gender regime. In the 1990's, under Menem's Presidency, constraints at the national scale—such as the fragmentation of the women's movement and the lack of government commitment to institutionalizing women's issues in the bureaucracy—made it difficult to implement and sustain a gender agenda. Thus, the capability of women's organizations to go beyond the traditional domestic political arena was critical to challenging existing power relations at the national scale. As developed in chapter four, women's involvement in the UN arena was critical to spreading word of women's status in the country, through their submission of alternative reports to the CEDAW Committee.

This thesis has argued that the Argentinean women's movement has played a critical role in advancing a gender agenda on reproductive rights since democratization in 1983. While these domestic developments accelerated the transformation of the gender regime, the emergence of a global gender equality regime and a women's rights discourse affected local domestic politics and policies, particularly with respect to women, and influenced government efforts to adjust the global frameworks to the Argentinean context.

In analyzing the role of the women's movement at different scales, the framing and reframing of the universe of political discourse was critical, and framed at different scales. With the transnationalization of the concept of reproductive rights, public controversies took place in the global scale, empowering Argentine' women's discourses at both the sub-national and national scales. Building a common gender equality discourse was critical for women's organizing at these different scales. In Argentina, a change in the way reproductive rights are framed is apparent at the level of the political discourse. Transnationalized discourses on reproductive rights have, however, empowered Argentinean women.

It is relevant here to understand why particular discourses become significant at specific times, and not at others. In Argentina, the 2001 financial crisis provided a very useful context under which the international discourses found resonance at different scales. It is important to note that decisions about fertility were historically delegated to families, and state intervention was almost inexistent. Why did the national state finally adopt an explicit family planning program? Why were political actors successful in mobilizing resources and challenging the basis of a conservative gender regime?

The Cairo Conference reframed the concept of reproduction from a perspective focused on demographic concerns, to one that emphasized women's health and reproductive rights, especially in the context of female poverty. Despite the contested nature of reproductive rights, this emphasis on women's health contributed to reframing the issue in an acceptable manner. The use of women's human development indicators, such as maternal mortality, swayed policy concerns from fertility and population to women's rights and health. As Argentina's case revealed, a health perspective was critical to addressing this issue in the sub-national and, particularly, national congress, after the 2001 financial crisis left the country in an economic depression with levels of poverty and inequality never before known. Government concerns about addressing poverty and inequality created a unique opportunity for women to pursue an agenda on reproductive rights, and discourses and ideas became nationalized in this historical context. With the recognition of inequality and poverty, the need to support vulnerable women opened opportunities to expand women discourses on reproductive rights.

Finally, this thesis suggested that globalization has altered the way northern and southern perspectives on biological reproduction are related. When compared to the national debates of the 1970's in some of the advanced democracies of Western Europe, the current global debates have a wider spectrum of women's concerns regarding biological reproduction. The violation of women's reproductive rights in many parts of the world is not only due to the denial of abortion and contraception, but also to forced sterilization and abortion being used to control population growth. This has permeated women's transnational discourses, and given a more comprehensive meaning to biological reproduction and how it differs internationally. It also had the effect of

involving more issues in the debate, with uncertain consequences for gender equality. In fact, as the Argentinean case demonstrates, the need to build inclusive coalitions to achieve policy change has forced women to rescind some of their original demands, especially the regulation of abortion. Yet despite the limits to decriminalizing abortion in Argentina, the advance of reproductive rights, particularly contraception, empowered women's organizing and activism. Several bills were submitted to the national congress to decriminalize abortion and/or to enforce administrative procedures to guarantee that permitted cases were performed in the country. These initiatives were promoted by the national campaign for legal, safe and free abortion, as well as diverse groups of women, including MP's and women's associations.

Instability, Persistence and Change

This thesis is concerned with addressing change in both gender policies and the gender regime. Three components of the gender regime were identified in the first chapter: civil and political rights, which entail women's political participation and representation; paid and unpaid work and women's welfare; and body rights and politics. Changes are observed in all three areas. First, democratization and the renewed discourse on human rights since 1983 encouraged change. Institutions were reorganized as well, as women gained the ability to alter the structural context of representation. In particular, the introduction of the women's quota created opportunities to discuss women's rights, especially reproductive rights. Despite a long history of democratic instability, democracy has persisted through economic meltdown and impoverishment. Democratic stability since 1983, though influenced by political and economic uncertainty, redefined

perspectives about sexuality, body rights and personal freedom. In addition, the media's role in exposing controversial cases about reproductive rights prompted an important shift in public perception of their own reproductive decisions, as presented in chapter six.

Second, the conservative gender regime began to destabilize, due to structural adjustment policies and their effects on families and women. Indeed, the rapid entry of women into the labour force was the result of economic pressures, particularly on poor and low-middle income families and women. The changes in families, and the increasing number of women in the labour force, indicate a critical shift in the relationship between social and biological reproduction. Women have been forced into the labour market, and consequently the need for childcare and domestic services has increased. Thus, changes in the status of women (feminized poverty and rising women's paid work) provided opportunities to frame contraception and abortion around the need to provide reproductive health services to poor women without adequate access to public health services. Still, there is influential resistance and pressure from some sectors of the women's movement to find agreement on the meaning and extent of reproductive rights.

Changes in reproductive policies are still developing, however, though quite slowly. A decade of struggle has resulted in the adoption of new reproductive policies, the judicialization of the reproductive rights debate, and increasing public debate on biological reproduction. Still, important remnants of the old policies remain, which demonstrates the strength and persistence of the old paradigms of familial and maternalist discourses and policies. As argued in this thesis, path-dependency is difficult to maintain in an unstable institutional context, and Argentina's public policies have historically been highly volatile. Examining the general welfare regime, however, reveals important

vestiges of the old paradigm that remain unchanged. Yet, successful amendments of some components have prompted an important shift from the original configurations of the old conservative regime. These changes, however, are shaped by the predominant ideas and discourses of the historical legacies of the Argentinean gender regime. Policy responses have tended to address the new problems within the old paradigms, which still portray traditional family values and gender roles. These elements demonstrate that path shifting is taking place in the Argentinean gender regime, though the new policies are being adopted while important views of the old paradigm are preserved.

Prospects for Future Research

This thesis contributes to an important new area of research (i.e. the analysis of welfare and gender regime with emphasis on Latin America) where only limited studies focusing on social policies and gender have been conducted. This analysis not only provides explanations for the problems of gender equality and regime change in Argentina, but also uncovers important areas for future research. Among these, three issues are particularly in need of further examination and development. The first is the relevance of multiscalar politics in reproduction. For example, in Argentina the legislature of Buenos Aires city recently adopted a new bill to regulate the performance of permitted abortions, and to guarantee the practice in the public hospitals of Buenos Aires city. Yet, sub-national scales other than Buenos Aires city are becoming increasingly important to understanding the current changes in the gender regime. In Rosario, Argentina's second largest city, for example, the municipal council (*Concejo Deliberante*) passed a bill demanding that the federal government take action on the decriminalization of abortion.

Clearly, these events taking place at the sub-national scale pose challenges to the conservative gender regime, as they either suggest action and/or demand that the national government change its policies regarding reproductive health.

More broadly, multiscalar politics in the area of biological reproduction have become increasingly significant in explaining current transformations of the welfare and gender regimes in Latin America. In addition to Argentina, Mexico is a good example of multiscalar politics in biological reproduction. Mexico recently became the first Latin American country to legalize abortion, specifically in the Federal District of Mexico City, where a center-left political party was able to effectively challenge the conservative government at the national level. The Mexican National Supreme Court accepted the resolution, thereby legitimating the City's decision. This ruling of the Supreme Court could encourage other sub-national states to adopt similar measures, highlighting the significance of local actions in challenging national gender regimes.

A second development is related to the relevance of women's agency to understanding policy and regime change. There are not many studies of the women's movement in Argentina, and historical analyses have focused almost exclusively on the period 1880-1930, women's contribution to the building of the national state and, in particular, the social value of women's reproductive role as it was explained in this thesis (Nari 2004; Lavrin 1995; Novick 1993). Some later studies focused on the role of Eva Perón and the Peronist movement in expanding women's political rights (Novick 1993), and the adoption of the legislative quota in the National Congress was examined recently (Franceschet and Piscopo 2008). Other scholars cited in this thesis have focused on the

transnationalization of the Latin American women's movement, but without linking the regional frames and the Argentine women's movement.

This thesis has integrated the relevant dimensions of women's participation within and outside formal politics, but more research would be useful. One important question that emerged from this study is why Argentinean women decided to become 'specialized' on certain issues such as reproductive rights and political participation and representation, while other issues important to gender equality were relegated to the public agenda, or partially adopted. An important aspect of the gender regime is the social dimension of reproduction due to the link between paid and unpaid work of women, and government responses to women's involvement in the labour market. In the area of family support, responses to women's rising labour force participation—childcare, parental leaves, and family allowances—as key components of gender regimes also needs to be expanded in the study of Latin American gender regimes.

Finally, just as globalization has contributed to reframe social policies, family policies have become closely identified with liberal welfare regimes. Indeed, one factor conservative-familialist regimes share with liberal welfare regimes, such as of those of North America, is a reliance on family and market arrangements to manage emerging social risks. This is becoming more developed in Latin America, as governments have adopted the set of 'best practices' for public sector reform that is preferred by international organizations. An important historical-institutional legacy of the gender regime in Latin America is the familialism and predominance of maternalist discourses and traditional gender roles. How policy discourses and recommendations impact these regimes remains an interesting issue for further study.

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En la Argentina, por cada dos nacimientos hay un aborto. Clarín July 15 2008.

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List of Interviewees

Carmen Storani Former President CNM – Nacional Women Council and Former Women's Director Buenos Aires City Government
(October 6 2005)

Patricia Saenz Trilateral Commission of Equality of Opportunities in the Workplace
(October 11 2005)

Marina Laski Women's Direction Buenos Aires City Government
(October 18 2005)

Diana Mafia Former Ombudsman Buenos Aires City - MP Legislature of Buenos Aires City (October 19 2005)

Eugenia Trumper Executive Director Buenos Aires programme on Reproductive Health
(October 21 2005)

Maria Lucila Colombo Former President CNM – Nacional Women Council
(October 25 2005)

Virginia Franganillo Former President CNM – Nacional Women Council
(October 27 2005)

Patricia Vigano (Government of Buenos Aires, Jardines Maternales Division)
(October 31 2005)

Inés Martinez Executive Director Federal programme of Reproductive and Sexual Health
(November 1 2005)

Florencia Elgorria (Children's Rights Office, Buenos Aires)
(November 1 2005)

Graciela Moffson Buenos Aires City Ombudsman – Women's Rights
(November 7 2005)

Dora Barrancos Former MP Legislature of Buenos Aires
(November 7 2005)

Olga Hammar President Trilateral Commission of Equality of Opportunities in the Workplace (November 9 2005)

Cecilia Lypsic (ADEDUEM)
(November 11 2005)

Susana Pastor (Feministas en Acción)
(November 14 2005)

Belkys Karlen (Feministas en Acción)
(November 14 2005)

Cristina Zurutuza (CLADEM Argentina)
(November 22 2005)

Maria Jose Lubertino (Instituto Político y Social de la Mujer)
(November 24 2005)

Mabel Bianco (FEIM)
(November 24 2005)

Dinorah Gebennini Women Direction – Foreign Affairs Ministry
(November 28 2005)

Mónica Petracci (CEDES)
(November 30 2005)

Buenos Aires City Ombudsman – Health Division – Several interviews with employees
(November 2005) Non-recorded.

Silvia Julia Católicas por el Derecho a Decidir, Córdoba
(March 16 2006)

Graciela Rosso Nacional Deputy Argentine Congress Frente para la Victoria
(May 7 2007)

Martha De Brassi Nacional Deputy Argentine Congress Frente para la Victoria
(May 22 2007)

Silvia Augsburg National Deputy Argentine Congress Partido Socialista
(May 23 2007)

Juliana Marino National Deputy Argentine Congress Frente para la Victoria
(June 15 2007)