

# **From embarrassing objects to subjects of rights: The Argentine LGBT movement and the Equal Marriage and Gender Identity laws\***

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## **Introduction**

This article examines the Argentine LGBT movement within the framework of two longer-term processes. First, an enlargement of rights that is typical of post-transitional situations, with the peculiarity that a quarter of a century after its transition to democracy Argentina experienced a strong resurgence of the human rights discourse as judicial procedures were reopened to deal with human rights violations committed under the 1976-1983 dictatorship. Second, the global widening of the concept and practice of human rights –including those related to sexual orientation and gender identity- and the fight against all forms of discrimination.

Both processes occurred almost simultaneously in Argentina. When the dictatorship began in the mid-1970s, sexuality was not yet secured as a human right anywhere in the world. As democracy was restored in the early 1980s, sexual rights had just begun to be understood as rights, and the first Argentine sexual diversity organization, the Argentine Homosexual Community (CHA), was then founded.

Through the 1980s and until the mid-1990s, the nascent LGBT movement was primarily concerned with issues such as homophobia, police violence and the HIV/AIDS epidemic. By 1997 there were effective HIV/AIDS treatments covered by the national health system, and since the mid-1990s greater advances were made regarding civil and social rights. For about a decade the CHA was the main LGBT organization, with other groups gaining more visibility during the 1990s. Lesbians eventually obtained wider public visibility during the process leading to the Equal Marriage Law, and trans people did so during the campaign for the Gender Identity Bill.

The period covered by this study begins in 2005, with a series of controversies regarding prostitution in Buenos Aires, and ends in 2012, when the Gender Identity Law was passed -two years after the Civil Code was reformed in order to legalize same-sex marriage. The whole process, pushed forward by the Argentine LGBT Federation (FALGBT) and other organizations, was amazingly fast. Also surprising were the deep changes operated in public opinion and the consensus that formed around equality and nondiscrimination regarding gender and sexuality. In less than a decade public debate evolved from a discussion of the legality of police edicts to the legalization of same-sex marriage and the recognition of every person's right to request new identity papers rectifying her public identity, along with the obligation of health service providers to cover body adjustment treatments. Progress was made from a situation in which sexual diversity was embodied –and subject to ridicule and contempt- in the stereotype of the

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“mannered” homosexual and the “shameful presence” of trans people, to a situation in which diversity was given legal recognition and civil rights were granted equally, regardless of sexual orientation or gender identity –bringing along new opportunities for the effective enjoyment of other rights.

This article is based on primary and secondary sources, including the websites of magazines and newspapers (notably *La Nación*, *Clarín* and *Página/12*), radio broadcasts and TV programs; online profiles, publications and other materials of the organizations and campaigns; and, last but not least, in-depth interviews with movement leaders, activists, participants, and qualified informants.<sup>1</sup> It first gives a brief overview of the sexual diversity movement in Argentina, after which it goes on to describe the processes leading to the Equal Marriage and Gender Identity Laws. It then discusses the actors and alliances, as well as their main strategies and actions, before examining the formation of a social consensus and the resulting cultural change, and providing some concluding remarks regarding the potential for the constitution of a new egalitarian common sense.

### **The sexual diversity movement in Argentina**

The main precedent of the current Argentine LGBT movement was the leftist revolutionary Homosexual Liberation Front (FLH), founded in 1971. The FLH's immediate forebear was the Group Our World, established in 1967 by lower-class homosexuals, mostly trade union activists. Soon after, their convergence with a group of intellectuals produced the FLH. Throughout its short life, the FLH gravitated between leftist Peronism and Marxism and advocated for both to include the homosexual community's claims.

Relations between leftist and sexual diversity activism, however, were not without tensions. When the FLH staged its “first heroic act of visibility” (César Cigliutti in *CL*, 8/09/10) by joining a demonstration in Plaza de Mayo, for instance, it was greeted by the chant “we are not fags, we are not junkies, we are soldiers of FAR and Montoneros!” In any case, what remained of the FLH dissolved as the dictatorship began, and with the end of the military regime the CHA emerged. “Democracy began and we all thought that all guarantees and individual freedoms were automatically restored, but reality taught us that many things from the [dictatorship] remained”, explains Marcelo Suntheim.

Murders of transvestite girls were quite frequent [...] nothing was ever investigated. [...] It was enough to look gay while walking down Santa Fe Avenue for the police to stop [you] and apply the famous police edict [...] that stated that scandal was not allowed in the streets (Marcelo Suntheim, interview in *El Puente* #17, 9/02/11).

The CHA initially focused on fighting police edicts and increasing the community's visibility. Since 1986, when they joined the 24 March event marking the tenth anniversary of the military coup, they placed the issue of sexual diversity within the framework of human rights. The Mothers' Resistance Marches, International Women's Day, and the March 24 mobilizations all became key landmark dates of the movement.

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<sup>1</sup> Except for those of public figures, the names of the interviewees were changed.

Despite its intense activity, however, the CHA was officially recognized only in 1992, after years of judicial litigation.

The 1990s were marked by increased social visibility and intense work with the gay community. Within the latter women were still “invisible,” while “even in gay settings, transvestites were just a part of the show” (Mariano, interview 8/02/12). This situation started to change, and the term “transgender” was coined in order to designate transvestite, transsexual and intersexual persons. In 1992 the first Pride Parade (*Marcha del Orgullo*) was staged in Argentina, amid fears and a low turnout.

In 1993 the CHA ran a campaign aimed at forcing politicians to state their positions regarding sexual diversity, which has since been repeated before every election. In 1996 their anti-discrimination efforts were rewarded when Buenos Aires city’s Constituent Assembly established sexual orientation as an unacceptable discriminatory excuse; two years later police edicts were abolished in the district. In 1999 the CHA sued the government so it would recognize the pension rights of same-sex partners. In 2000 a civil union bill was introduced in the local Legislature, and two years later Buenos Aires was first in the region to have a law granting legal recognition to same-sex couples.

In the 1990s sexual diversity organizations began to multiply and spread beyond the city of Buenos Aires. A heterogeneous movement was created that included specific organizations for male gays, trans people, women and transvestites involved in prostitution, feminist lesbians and members of co-maternal families, as well as the novel “diversity branches” within most political parties. This organizational process took place within a wider global process, the first milestone of which occurred in 1990, when the World Health Organization removed homosexuality from its list of mental illnesses. A decade later, in 2001, the Netherlands became the first country in the world to legalize same-sex marriage, and others soon followed. Inspiration came to the Argentine LGBT movement when a similar law was enacted in Spain, in 2005.

### **Annoying objects**

As of 2005, transvestites were regarded as men who dressed up as women in order to prostitute themselves. Only seven years later, when the Gender Identity Law was passed, they had begun to be seen –to a great extent due to the FALGBT’s work- as persons whose gender identification did not fit the socially sanctioned identity they had been assigned at birth, and who were mostly involved in prostitution due to lack of alternative options.

In 1996 the new Constitution of the city of Buenos Aires had recognized the “right to be different” and included gender and sexual orientation in its antidiscrimination clause. In January 2005, a new Code of Misdemeanors authorized the offer of sex in public places located at least two hundred meters away from private residences and educational and religious institutions, leading transvestites to move their activity towards the Rosedal, a big park in the Palermo quarter (cf. *CL*, 1/27/05). Their presence triggered lengthy controversies that led to prohibition and protest.

Following complaints from a group of neighbours, the city government banned

the offer of sex in the Rosedal in July 2007. This decision was temporarily suspended after a demonstration took place outside the city government offices, and the organizations involved were summoned to a “dialogue table”; here, organizations representing sexual diversity demanded that the local government implement health, education and employment policies for trans people, whose life expectancy was calculated at about thirty-five years (*CL*, 8/04/07). In mid-2008 an agreement was reached to relocate prostitution to a more isolated area of the park. The agreement included new toilets, trashcans and speed bumps, a health program, a schedule for sex trade, and reinforced police presence (*P/12*, 5/07/08). Annoyed neighbors were now a minority: many more emphasized the security gains brought by the presence of “the girls.”

In the meantime, the demand by ATTTA (Association of Argentinean Transvestites, Transsexuals and Transgenders) that would eventually translate into the Gender Identity Law gained increased public visibility. In September 2008 a decision by a Mar del Plata judge authorized Tania Luna to get a new female ID without undergoing surgery. Immediately after, ATTTA’s president Marcela Romero obtained a new ID after a ten-year judicial process.

2009 saw the introduction of a Gender Identity bill. According to a survey conducted by Analogías in 2008, 66.6% of the inhabitants of the country’s main cities were in favor of trans people being allowed to change the name on their identity papers, with only 22.5% against. Even more categorically, 75.7% agreed that sex reassignment surgeries should be allowed (cf. *P/12*, 4/01/10). A process thus began that culminated in May 2012 with the recognition of the so-called “right to be.”

### **The same rights with the same names**

In June 2005 homosexual marriage was legalized in Spain, a catholic country held as culturally conservative and with strong historical and cultural ties with Argentina – but led by a socialist government. That same year the Argentine Congress ignored a CHA initiative regarding the extension of civil union to the national level. Soon after that, in June 2006, the FALGBT was founded, and three months later representative Eduardo Di Pollina drafted a bill aimed at reforming the national Civil Code to allow marriage to all couples, regardless of sexual orientation or gender identity. The bill was introduced in April 2007 with the signatures of representatives from most parties, and a similar one was introduced in the Senate soon after. In November the 16th edition of the Pride Parade took place under the motto “Our celebration is a demand. Equality, Freedom, Diversity” (*P/12*, 11/16/07).

Earlier that year, FALGBT president María Rachid and her partner had gone to the Registry Office in Buenos Aires to request an appointment to get married (cf. *P/12*, 2/15/07). As expected, they were rejected, so the FALGBT interposed a *recurso de amparo* demanding compliance with the constitutional provision of equality. From then on, the judicial route was used to complement the congressional strategy. In February 2008, the Rashid and Castro presentation reached the Supreme Court, garnering much

media attention; soon after, a Congressional Front for the Rights of Sexual Diversity was formed by a group of legislators from all parties.

Since the presentation of the first *amparo* a social consensus was discernible, at least in Buenos Aires and its metro area. According to a poll by Analogías, 73% of the citizenry were in favor of same-sex marriage; even more people (82%) favored civil union. “Society is very much ahead of institutions,” pointed out María Rachid.

We often hear legislators tell us that they agree with us [...] but that this is not the right time, as if our lives could be put on hold until they believe that the moment has come to stop discriminating against us. Clearly, the people are ready, and what’s needed is for their representatives to take note of the message that this survey is sending them (María Rachid, interview in *P/12*, 2/18/07).

The bills were never debated and were reintroduced. Continued efforts to engage both the courts and legislators helped move the debate forwards. And in November 2009 tens of thousands of people took part in the 18th edition of the Pride Parade (*CL*, 11/07/09). The first milestone took place in the judicial front just a few days later: in response to the Freyre and Di Bello *amparo*, judge Gabriela Seijas ordered the Buenos Aires Registry Office to marry the couple, declaring the Civil Code articles that defined marriage as the union between a man and a woman to be unconstitutional. Catholic lawyers’ entities and other denominational organizations criticized the decision and lodged several, unsuccessful, appeals while Freyre and Di Bello obtained an appointment to get married on December 1st. Before that date, however, Seijas’ ruling was declared void by a judge from a different jurisdiction. Freyre and Di Bello eventually managed to get married in Tierra del Fuego, their success strengthening the legal demands of many others.

Meanwhile, the FALGBT showcased their political support with a press conference in the Congress involving representatives from five different political parties. Soon afterwards a joint meeting was summoned of the two congressional committees involved, and the resulting bill was sent to the House, where it underwent additional delays. Finally, on May 5 the House passed the bill with 126 votes for and 110 against; hundreds of demonstrators celebrated in the streets.

A few weeks later, the first in a series of public hearings on the bill took place at the Senate’s General Legislation Committee, with interventions from representatives of several organizations on both sides. Besides arguing that homosexuality was “against nature” and that the etymology of “marriage” excluded the possibility of two people of the same sex entering the institution, opponents to the reform of the Civil Code insisted that same-sex marriage was foreign to the Argentine cultural roots and was instead part of the “agenda of the city of Buenos Aires”, more subject to foreign fads and influences than the country’s healthier interior provinces. The Catholic Church’s Commission of Legislative Monitoring successfully requested that public hearings be held in several such provinces. As a result, the Committee toured a dozen provinces, where its very Catholic president held meetings with religious leaders while systematically refusing to receive LGBT leaders.

LGBT voices were downplayed in the hearings, while those of Catholic and Evangelical representatives were disproportionately heard. In response, the FALGBT

organized a series of activities that included demonstrations, cultural events and meetings with leaders of other social organizations, and concluded with a festival on June 28, International Gay Pride Day, which summoned 50,000 people. Meanwhile, the judicial strategy kept on yielding: thanks to a favorable ruling by a La Plata judge, in late June a wedding between two women took place in the province of Buenos Aires.

After eight hearings in the Senate and a dozen in several provinces, the Committee produced a report recommending the Senate decide whether to discuss the bill passed by the House, whilst offering an alternative civil union project. The bill then received a decisive boost: former president (then national legislator) Néstor Kirchner stated his position in favor of legal change and exhorted the nation to “leave all discriminatory and obscurantist visions behind” (*CL*, 7/08/10). President Cristina Kirchner intentionally missed the traditional Independence Day religious service after a negative reaction from the Catholic Church’s top authority, and instead gave a speech in which she demanded that an egalitarian society be built in which “minorities have the same rights as the majority” (*CL*, 7/09/12; 7/12/10).

On July 14 the Senate passed the bill without modifications and Argentina became the first Latin American country to legalize gay marriage, unleashing euphoric celebrations. “Argentina is now a better country”, announced Alejandro Freyre. The change was, he emphasized, “not just for gays and lesbians, but for everybody” to celebrate (*CL*, 7/15/10). The president signed the bill in a celebratory event that was attended by LGBT activists, human rights leaders, judges, ministers and governors.

By the end of the year same-sex marriages had taken place in all of the provinces; in every district, the first couple to marry made the news. By the law’s first anniversary there were 2,697 same-sex married couples (60% male; 40% female) (*LN*, 7/14/11). “Now that TV cameras do not go to the Registry Offices anymore, a lot more people gather the courage to request an appointment,” assured Paulón (*CL*, 1/30/11). The increased visibility of the LGBT community in places that were resistant to diversity was celebrated as an encouragement for others to “come out of the closet.”

## **The right to be**

As soon as the House passed the equal marriage law, the activists started chanting: “Legal papers for transvestites and transsexuals!” (*P/I2*, 5/06/10). A campaign was launched for a law of Gender Identity and Health Coverage for trans people right after the Senate vote. “Consensus is there even before we start looking for it,” remarked trans activist Alba Rueda (*P/I2*, 7/22/10).

The first Gender Identity bill (2007) had expired without debate and had been reintroduced in 2009. Discussion of this bill started in the House of Representatives, and ATTTA activists were for the first time invited to express their demands.

The FALGBT used a similar legal strategy to that which had helped speed up congressional discussion and approval of the Equal Marriage Law. New IDs for trans people were requested through the courts. And in November 2010 the National Front for the Gender Identity Law, recently formed by several organisations, had their own

initiative introduced in the National Congress with the support of representatives from several parties.

That year, the 19th Pride Parade's motto was "Let's go for more. Gender Identity Law NOW." The ambience was more relaxed than in the past –and more political too. As pointed out by a journalist, "it felt like that there was no need to put up a show, as could be seen in the case of many transvestites who turned up wearing their everyday women's clothes" (*CL*, 11/07/10).

In December a favorable response was given to a court request filed on behalf of trans actress Florencia de la V. The judge ruled that identity was a human right and dismissed the imposition of any psychiatric or medical requirement to justify the demand. Later that month, another judge ordered the State to provide a person with new papers with the gender identity of her choice without proof of any surgery or medical procedure. "A person's sexual identity goes far beyond the biological," the judge stated, urging Congress to pass a law simplifying the procedure (*P/12*, 1/04/11).

Committee discussion started in mid-August 2011. The debate in the House, however, was postponed due to the upcoming presidential elections. Meanwhile, in late August the FALGBT presented its Plan for LGBT Citizenship along with the report *Legislation for Equality*, based on a survey on the LGBT situation in 27 Argentine cities. Right after that, the Ministry of Health launched a pilot program that ran at nighttime in public hospitals and provided medical checkups and treatment to people –such as transvestites and transsexuals- who usually avoided such places during regular business hours.

In October new expressions of support started growing out of universities. The National University of Córdoba's Higher Council approved a proposal for the institution to respect the "self-perceived gender" of its students, teachers and personnel, which allowed them to request that the name of their choice be used in all of the university's areas, including its hospitals. The lead was followed by other public universities. In November 2011 the Buenos Aires city Ombudsman Office mandated that their name of choice be used in all legal procedures involving trans persons, and required local and federal police forces to do the same. Shortly after, the Public Security Minister required all police and security forces to respect their members' gender self-perception and provide uniforms and restrooms accordingly. A year later, the Health Ministry of the province of Buenos Aires obliged all its public hospitals to call trans patients by their chosen name, which was also to be used in their clinical histories. This measure, which also included awareness training, was expected to have a deep impact, as 40% of trans people had never visited a medical facility for shame or fear (*LN*, 12/16/11; *P/12*, 12/17/11).

Tens of thousands of people took part in the 2011 Pride Parade, and for the first time in Argentina the transvestites headed the parade, exhibiting placards of their new IDs and the phrase "My identity is a right." Three days later, in a room full of activists and television cameras, a plenary meeting of the two involved congressional committees took place; the resulting majority report was a synthesis of the many initiatives under consideration. Around the same time the National Institute of Statistics and Censuses (INDEC) launched its first national study on the trans population.

Thanks to an agreement among the main parties, the House passed the bill by 167 votes to 17 on the last session of 2011. A few months later, in May 2012, the Senate approved by unanimity a Gender Identity Law that was described as one of the most advanced in the world, for being based on the principles of de-judicialization, de-pathologization, decriminalization and de-stigmatization of trans identities. The new law enshrined the State's obligation to provide every citizen with identity papers consistent with their self-perceived identity, regardless of biological sex and with no need for medical or psychiatric diagnoses or adaptation surgeries. Both adults and minors (with their parents' or judicial tutor's approval) were granted access to hormonal treatment with no need for judicial or administrative authorizations; treatment and surgeries would be provided through both the public system and private health insurance companies as part of the Compulsory Medical Plan.

## **Actors**

The demands and initiatives regarding the human rights of LGBT persons that eventually translated into the Gender Identity and Equal Marriage laws had their origins within civil society, were pushed forward by a social movement in conjunction with a series of allies within the political system, and were embraced by a majority within the latter only when it became evident that a solid social consensus had formed around it. The leading role was played by the FALGBT, a national network that grew to about sixty organizations nationwide.

The most visible face of the demand for equal marriage was then-FALGBT president María Rachid. In December 2010 the Spanish newspaper *El País* named her among a hundred prominent people from Spanish America, and she went on to be elected as a Buenos Aires legislator (on the party ticket of Kirchner's Frente para la Victoria - FpV). The Gender Identity bill, in turn, was driven by an alliance of organizations and granted unprecedented visibility to trans leaders such as Lohana Berkins (ALITT) and Marcela Romero (ATTTA).

The ability to build and maintain a unified front for the advancement of its demands was one of the movement's main assets – one not present in many other countries in the region. The network of organizations aligned behind the demand, in turn, grew as their efforts were met with conservative resistance.

The public hearings in the provinces caused a reaction [...]. People got organized in order to do something [...]. It also helped to tie nationwide alliances with unions, students', workers' and human rights organizations that never before had had any contact with a sexual diversity organization, but who saw the demonstrations and listened to the atrocities [...] and got angry (María Rachid, interview in *P/12*, 7/18/10).

The social movement's main allies within the institutional system were some judges (particularly female ones) who issued rulings ordering the Registry Office to marry applicants, as well as a few legislators (again, especially women legislators) who pushed forward the bills in both houses of Congress. Within the Executive branch stood out the National Institute against Discrimination and Xenophobia (INADI); also



significant was the support expressed by former and current presidents Néstor and Cristina Kirchner. Last but not least, the movement's allies included journalists, artists, students, academics, psychoanalysts and even religious and trade union leaders. Also important at key moments was the presence of foreign activists such as Pedro Zerolo, who provided invaluable know-how from the Spanish experience.

On the opposite side were the hierarchies of the Catholic Church and a variety of evangelical churches, alongside related institutions, such as lawyers' organizations, professional bodies, schools and universities. Most experts who argued against egalitarian marriage before the congressional committees came from these institutions.

### *Women in action*

Throughout the process, women played a major part. The main driving forces in the National Congress were almost invariably women. Twelve out of twenty representatives who signed the Equal Marriage bill in early 2007 were women (cf. *P/12*, 5/02/07), as were both chairs of the legislative committees and the judges who issued the first rulings stating that the prohibition of same-sex marriage was unconstitutional. The provincial governor who facilitated the first same-sex marriage was a woman. Between 2006 and 2009 the INADI was led by a woman, the main visible face of the FALGBT was a woman, and a female couple was the first to request an appointment to get married.

Despite being underrepresented in all sites of institutional and social power, women stood out not only among the leading actors of the movement but also among its allies in positions of authority. "If we hadn't had gender quotas, the law wouldn't have passed. There were a hundred women legislators in the House of Representatives: two out of three voted in favor [of equal marriage]" (Ignacio, interview 8/01/12).

To explain this support, our interviewees emphasize the parallels between the present situation of homosexuals and that historically endured by women, as well as the work still needed in both cases to turn legal equality into real social equality.

Thousands of years with lessened rights give women a different perspective [...] Women were [our] great natural allies. [...] Heterosexual men rule the planet since the beginning of time, so they don't see this as urgent (Ignacio, interview 8/01/12).

There is a shared agenda, which we had even before the dictatorship. The feminist movement worked together with the sexual diversity movement. [...] Our lesbian comrades have historically been relevant participants of feminist groups. [...] With the advent of democracy [...] they again took each other's agenda. Because [it is] the patriarchal and sexist idiosyncrasy [that] establishes inequality. Therefore, your agenda is my agenda (José Maria Di Bello, interview 8/04/12).

Far from having taken place "naturally", however, this shared agenda is the result of hard political work, and relations were not always smooth:

When I started speaking about transvestites within the women's movement, I was called all kinds of names. They said that I was coming with these men disguised as women in order to try and colonize a space that belonged to women (Maria Rachid, interview in *Zona de Respuesta*, 3/12/12, op. cit.).

### *Youth and generational change*

Another element repeatedly empathized is the youth of the movement that propelled the legal change: both the leading role played by recently created organizations and networks, and the young age of the great majority of the LGBT activists who were mobilized during the process.

The age differential is apparent not just in the intensive use of new communication technologies but also in the growing distance between young activists and the “old homosexuals.” The latter seem to be increasingly viewed by the new generation with a mix of reverence – given their role as pioneers - and impatience towards their “inflexible,” “prejudiced” stances. In contrast, the younger members of the Federation tend to see themselves as more pragmatic, change-friendly, stereotype-free and as the carriers of a wider agenda. Hence their celebration of the citizenship rights entailed by widened access to the institution of marriage –the same institution that their elders (mostly from within the CHA) kept rejecting as conservative and bourgeois.

### *Political parties and leaders*

“Bills such as this one correspond to very personal stances and do not reflect the positions of party blocks,” declared senator Vilma Ibarra in when introducing a bill on same-sex marriage (cf. *P/12*, 10/16/07). The main congressional driving forces of the reform of the Civil Code were a handful of leftist and center-left legislators –only a few of whom belonged to the powerful FpV. Most of their political parties were small, so the final decision whether to allow the initiatives to be discussed fell to the majority party’s leader -former president Néstor Kirchner. Our interviewees’ views differ widely regarding Kirchner’s actions and the principled or opportunistic character of his involvement; however, they all stress the importance of the role he played.

Within the framework of the Argentine political system the commitment of a party leader does not entail the automatic alignment of his party’s legislators –especially when it is assumed that “moral convictions” are at stake. This means that votes for the marriage bill had to be secured one at a time –a task the Federation activists obsessively devoted themselves to (cf. Bimbi, 2010). On account of internal differences, all congressional parties granted a free vote to their members.

47 out of 87 Peronists voted in favor, as did 16 out of 42 Radicals, 5 out of 10 PRO representatives, and 7 out of 21 from the Peronismo Federal. [...] Those on the center-left always did the right thing. [...] On the center-right, the most liberal ones also supported the bill (Esteban Paulón, interview 7/31/12).

### *Religion and churches: influences and dissidences*

The opposition to the new marriage law was mostly religiously inspired. Although churches were mostly against it, however, their opposition was not unanimous: dissent was present in all of them, and there were even a few small ones on the reformist side. Thus the debate highlighted religious pluralism within Christianity and Catholicism.

As pointed out by Jones (2010), the world of evangelical churches in Argentina comprises both a liberationist pole with an ecumenical tradition and a history of human rights advocacy, and a biblical conservative pole accounting for the highest number of parishioners. The situation is different in the Catholic Church, due to its unified and pyramidal structure. In this case, differences became apparent between the stances taken by the Church's hierarchy -which, although not monolithic, were hostile to same-sex marriage- and those of some minority catholic sectors that were in favor. There were also so-called "diversity groups" within most if not all religions, such as Gay Christians or Gay Argentine Jews (JAG).

According to many LGBT activists, the stance adopted by the leaders of the Catholic Church ignored both internal dissent and the opinions of the majority of its parishioners. As shown in a poll by the Center for Studies and Research on Labor (CEIL), the opinions of the average Catholic (about 70% of Argentines declare to be Catholic, but most do not regularly attend religious service) on topics such as abortion, sex education in schools, the use of condoms, premarital sex and public funding of denominational schools differ widely from the official positions of the catholic Church (cf. *P/12*, 7/18/11).

Religion's political and social influence also varies markedly with geography: it is lowest in the city of Buenos Aires, its metropolitan area and a handful of other big cities -which, as a whole, account for about half the country's population. It is not surprising, therefore, that about 80% of the votes in favor of equal marriage in the House came from the city and province of Buenos Aires and the province of Santa Fe. Despite the fact that the smallest and most conservative provinces are overrepresented in Congress, a process of secularization and displacement of religious beliefs to the private sphere seems to be well underway, as expressed in the following statement by a legislator: "I have my religious convictions, but today as a national representative I have to make a decision consistent with my democratic convictions" (*P/12*, 4/16/10).

### **Actions and strategies**

The movement's public visibility increased exponentially with the deployment of two simultaneous and mutually reinforcing strategies, judicial and congressional.

The judicial strategy was launched in February 2008, and consisted in filing *amparos* on behalf of same-sex couples that had been denied a marriage appointment at the Registry Office. The complaint was based on the argument that the Civil Code articles that prevented them from getting married were unconstitutional. As a result of these, a number of judges ruled on the unconstitutionality of such discrimination. By July 2010, when the Equal Marriage Law was passed, nine marriages had taken place via court orders, despite the legal campaign orchestrated by lawyers from catholic

institutions.

Every new favorable ruling was brandished by the FALGBT as a call to attention for Congress. By mid-2010 the Supreme Court awaited a prompt congressional solution to the issue; in turn, the expectation of an imminent Supreme Court ruling functioned as an incentive for the federal government to push the issue forward and have it debated in Congress.

The congressional strategy started yielding in 2009, when debate on the marriage bill first took place. Ahead was a more difficult task than that of obtaining a favorable ruling from a progressive judge –that of aggregating the wills of dozens of legislators. The majority of lawmakers had no clear idea or position on the topic; they were, however, subject to hard-to-resist pressures based on the exploitation of their fear either of God or/and their own constituencies, presumably opposed to policies that were defined as antireligious, contrary to natural law and destructive of the social fabric. Therefore, a cultural battle took place that was aimed at increasing visibility, disseminating reliable and accurate information, and fighting irrational fears. Its two simultaneous targets were the citizenry as a whole and their congressional representatives –who were in turn likely to change their minds if a favorable consensus became apparent among their voters.

These strategies were reinforced by parallel steps forward that resulted either from denunciations of discrimination filed by LGBT organizations and the INADI or from autonomous decisions adopted by government departments and educational institutions. These were supplemented with actions of high symbolic value, such as the awarding of tokens of public appreciation (“woman of the year”, “outstanding citizen”) to prominent LGBT activists.

### *The repertoire of actions*

Especially relevant among the actions targeted to legislators were requests for individual meetings to explain the movement’s demands to the reticent ones, and coordinate the work ahead with the gay-friendlier ones. Other actions aimed at (or organized with) legislators included open letters requiring them to give priority treatment to the bills, and press conferences held in the Congress.

Information on the issue of marriage and “diverse families” was compiled in publications that were endorsed by well-known researchers and psychiatrists, psychologists and health professionals and organizations, and presented in public events. The FALGBT also made a series of spots designed to show that celebrities, role models and authorities within art, culture, science and religion supported the laws. Their aim was to display an existing social consensus while simultaneously creating and/or consolidating it. In the mass media, the mostly favorable journalistic coverage was supplemented by a steady stream of contributions by political leaders, social activists, respected academics and specialized professionals, typically in opinion columns and interviews. However, it was the presence of the movement’s main figures on news programs and televised debates that facilitated the wider diffusion of their demands and knowledge of their arguments amongst the general population. The court-ordered

marriages were also staged as political events, including press conferences and starring LGBT activists surrounded by their organizations' leaders and lawyers, INADI officials, and national and local legislators.

In the streets, activities took place either on symbolic dates or at key moments in the political process. Amongst the former was the yearly Pride Parade, which summoned ever-increasing crowds and was turned into a "political celebration." In 2010 and 2011 the parade included the unusual presence of a variety of party organizations such as Kirchner's La Cámpora or the leftist Partido Obrero; diversity groups newly created within political parties, such as Putos Peronistas ("Peronist Faggots," a nice example of the strategy of appropriating an insult); and even union confederations. The International Gay Pride Day was also celebrated every year. In 2010 the event took place just two weeks before the decisive congressional session and was shaped as a demonstration ("March for Equality") crowned with a festival in the square adjacent to the National Congress. Other demonstrations were staged around the key congressional sessions; all of them were typically organized through the social networks.

### *Chains of equivalence*

One successful strategy was to forge alliances based on chains of equivalence among claims of rights. That became especially apparent in the 2010 celebration of International Gay Pride Day. The demonstration sought to show that the demand for equal marriage did not belong to a small group but to society as a whole. It was fairly successful, as about 50,000 people attended and was endorsed by a number of social, trade union, student and human rights organizations, as well as prominent artists and scientists (*LN*, 6/29/10). Equivalences among claims for the full enjoyment of rights were brought up by LGBT leaders on numerous occasions:

This law can open the doors to others regarding migrants, handicapped people, or even regarding the issue of abortion decriminalization, which in Argentina shares the same obstacles with same-sex marriage, since the Church wants to prevail over the rest of society (María Rachid in *P/12*, 7/16/10; cf. also *P/12*, 9/03/10).

Similarly, during the first Pride Parade following the Civil Code reform, the slogan "One struggle, all the struggles" worked as an umbrella for a wide spectrum of civil society organizations. Having defeated one inequality, other inequalities moved towards the center stage, including ones seemingly unrelated to the LGBT cause:

We also have to fight against other inequalities related to poverty and the condition of women [...] Discriminations pile up on top of each other: you can be discriminated against for being a lesbian, a woman, for being poor, for coming from an interior province. It is against that that we have to fight. There are much deeper struggles ahead (Ignacio, interview 8/01/12).

### *Demonstration effect and regional networks*

Just as it learnt from the Spanish process, the Argentine LGBT movement in turn sought to create a regional “demonstration effect” and transfer its experience to other countries where debates on the topic were only beginning, such as Brazil, Chile, Colombia and Uruguay. As stated by Brazilian congressional representative Jean Wyllys, the first openly gay legislator in his country, “after passing this law, Argentina became a reference for the whole of Latin America” (P/12, 7/15/11).

The Argentine process had a multifaceted dynamic effect at the regional level. This effect was visible in the work of the transnational activism that operated in the social networks; the growing opportunities for exchange within the framework of regional forums such as the LGBT Network of Mercosur; and the participation of Argentine (as well as Spanish) activists and legislators in events designed to drive similar processes in neighboring countries – such as the 2011 launch of the Brazilian Congressional Front for LGBT Citizenship. In addition, a mechanism started to operate at a regional level, enabled by “international equal marriage” –i.e. same-sex couples of foreign activists getting married in Argentina and subsequently demanding from the State in their own countries that their marriage licenses be recognised, therefore setting off legal battles potentially leading to same-sex marriage legalization there. The first to use this mechanism were two Paraguayan activists, with the mayor of Rosario and former legislator Silvia Augsburger acting as their witnesses.

### *Activists, collaborators and sympathizers*

As emphasized by several interviewees, the process leading to the Equal Marriage and Gender Identity laws was highly labor-intensive, but had a minimal financial cost. The FALGBT president reports:

The equal marriage campaign cost nothing. 30,000 pesos for an event, and it was all donations. [...] All artists played for free. [...] We got free publicity. [...] The filming [was] done out of the good will of a few friends who are artists’ managers (Esteban Paulón, interview 7/31/12)

The Federation is simply a network of organizations. It has very limited resources of its own, most of which come from international cooperation institutions and are earmarked for specific projects. The Federation does not have its own office. During “calm” times its everyday operations require just a few hours of work by its president and the occasional activist (none of whom are paid). In contrast, during the gender identity and equal marriage campaigns, it required the full-time dedication of a number of activists -many of them public employees or on the payroll of political parties and social organizations. “We do this with great commitment; this has an enormous personal cost”, underlines Paulón.

The campaigns were therefore based on the voluntary work of hundreds of people; only some of these think of themselves as “activists”, while many more describe themselves as “collaborators” or “sympathizers.” Among the latter were well-known faces and anonymous people, homosexuals as well as heterosexuals.

Our family members, our friends, all the people from the [party] bloc, they were all for the bill and did whatever they could so it was passed. There were lots of people involved. If it had been just us, it would have failed (Ignacio, interview 8/01/12).

There were heterosexual people who went to the demonstrations [...] and smaller events [...] People I knew from the University, who were there to show their solidarity. [...] Many “independent citizens” felt the appeal of this cause (Santiago, interview 8/06/12).

## Cultural change and social consensus

The day before the same-sex marriage law was passed, María Rachid told the press that it was “a won cultural battle, in which there is no way back.” She added: “When we set out we did not imagine that we were going to have the consensus that we achieved” (*P/12*, 7/13/10). When the process began, LGBT activists believed that the cultural battle within society would be long; they were therefore surprised when in 2008 the first survey on the topic produced a 63% approval rate for their demand. From then on, “expressions of support started arising that we had never imagined that we would get” (María Rachid, interview in *P/12*, 7/18/10).

According to the initial diagnosis, “among those against equal marriage were two groups: the majority of those who rejected it did so due to prejudice, disinformation, ignorance. And another, smaller group, that had an ideological motive, which means that they were defending their privileges.” This distinction had to be kept in mind in order to avoid “[treating] as an enemy someone who is actually misinformed, as a result of their education, their background” (María Rachid, interview in *P/12*, 1/02/11). The campaign was therefore aimed at convincing this social majority by the force of the better argument and to fight their fears, typically based on stereotypes and biased (or false) information. The task, however, was not to be limited to the distribution of information; it involved “putting ourselves on the line”:

We threw ourselves body and soul into the task of building social consensus. [...] [After the first *amparos*] almost one and a half years passed and no other couple volunteered. Nobody dared do it because it meant a lot of public exposure [...] When December 1st came and we almost got married [...] there was already a social thing that had been built around interviews and media appearances [...]. People said: “[...] let them get married”. We even met grandmothers who told us that they had *prayed* so that we would be allowed to marry! [...] Visibility was essential; we had to show who we are: two people who love each other, with all our defects and virtues (José María Di Bello, interview 8/04/12).

Lawmakers followed a similar trajectory to society in general, with a number of representatives confessing to having become more “aware” and changed their views along the way. Change could be observed even among those who ended up voting against equal marriage: as Vilma Ibarra pointed out, “the most troglodyte legislators defended the alternative of civil union as if excusing themselves for not voting in favor [of marriage], ashamed of what they were doing” (*P/12*, 5/06/10).

The media also underwent a learning process regarding diversity, and new concepts started to turn into common knowledge -including the distinction between sex

and gender, the difference between transvestites and transsexuals, the relationship (and not just simple identification) between the members of this community and prostitution, and an understanding of the limited opportunities they enjoyed and the everyday difficulties that they faced. This progressed to such an extent that the media – and especially journalists - ended up being recognized by LGBT activists as invaluable allies.

### *The societal debate*

“There was no [TV] program, no dinner table, no school where no debate took place”, remembers Paulón. This intense social debate put in the limelight a number of well-prepared activists with an articulate, consistent discourse that was also conciliatory and moderate.

We prepared ourselves. [...] We looked at Spain; we looked at how the law had been achieved in different countries, which arguments had been used, which arguments [against], how to reply to them... During the first debates on television [with] priests, we got angry and ended up screaming [...] In later debates we were absolutely calm [...] we looked at that bitch that said all kinds of atrocities and answered: [in a sweet, low voice] “Well, we think that the country has to move towards equality, that we all should have the same rights...” It was the right strategy because we won the social debate with that. The Federation spoke of equality, rights, inclusion, family, diversity, joy, happiness, and love.

We had a number of resources readily available. So if the Catholic Church said that we would all go to hell, we immediately brought to the Senate all the evangelical, catholic and Jewish leaders we had and held [...] an intercultural mass for the equal marriage law. If it was said that the project belonged to the Kirchner’s [...] we organized a press conference with the [presidents of all main congressional parties] [...] Then it was said that gays were not fit to raise kids: there we went with psychologists and psychiatrists, with their professional associations (Esteban Paulón, interview 7/31/12).

If we had gone more radical, if we hadn’t had a discourse fit for the TV screen –more accommodating and pro-family, less anti-church-, this would have been a failure. We never stopped repeating that some of us were Catholics (Ignacio, interview 8/01/12).

Televised debates systematically exposed the argumentative asymmetry between the contenders. “They prepared themselves very badly, we were very lucky,” admits our interviewee. Not many were willing to be seen as the standard-bearers of the denial of rights; on the contrary, “the majority wanted to remain invisible [...] Only a reactionary minority [...] was willing to appear on television. [...] Only the most unrepresentable ones came out” (Ibid.).

The congressional debate replicated, only more systematically, the arguments already present in the mass media and the social debate. The contending parties also used markedly asymmetric discourses – one based on political principles of equality and nondiscrimination, the other on biological and religious arguments.

### Equality and difference



Made in the name of equality, the LGBT movement's demands were "all or nothing," as expressed in the marriage campaign motto: "the same rights with the same names". Its goal was not the recognition of difference but of equality and dignity (or, better, of equal dignity), hence its efforts to impose the labels of "equal marriage" and "marriage for all" over that of "gay marriage". Dignity, explained Pedro Zerolo, "is having the same rights, the same duties and with the same names as heterosexuals. Because if they don't have the same names, that's apartheid (Interview in *P/12*, 7/16/06).

Even the specific demand of difference recognition that eventually crystallized into the Gender Identity Law was based on the argument that such recognition is what equality required. As trans activist Diana Lavelle emphasized, "we are not asking for anything that every other person does not have, we do not want anything taken from anybody [...]. The only thing that we want is equality" (interview in *El Puente* #56, 6/01/12). Action was needed to guarantee trans persons the enjoyment of a basic right – the right to identity- that their fellow citizens took for granted, and without which access to all other rights remained closed. "With an ID that does not reflect their real identity, a person is not accepted in school, by the health system, nor has she the possibility of voting" (Esteban Paulón in *P/12*, 9/29/10). "If the Gender Identity Law is passed, I am going to be able to go to a hospital with no fear, to request a loan or use my credit card; [because] when I show it in a store they often think that it is stolen," explained a trans college student (*P/12*, 7/29/10).

### Human rights and democracy's debts

In Argentina, the topic of identity struck a particularly sensitive chord. Well into the 2000s, the plight of the Grandmothers of Plaza de Mayo remained very much alive as they kept looking for their grandchildren, who had been kidnapped along with their parents under the dictatorship, illegally adopted and deprived of their identities. Berkins stated it clearly when anticipating that "for the first time our community can achieve recognition, in a country where the wounds caused by theft and suppression of identity are still open" (*P/12*, 4/17/12). Unequal access to human rights was therefore defined by trans activists as one of the main "debts of democracy."

Democracy is in debt with us. [...] We have historically been excluded and we have stayed under the poverty line. We are undoubtedly democracy's forgotten ones (Marcela Romero in *LN*, 4/17/12).

Great emphasis was placed on the symbolic dimension of recognition. This demand was raised not just by the trans community but by the LGBT movement as a whole. The most basic of the claimed rights was indeed the right to exist, to be recognised as a subject of rights and counted as a member of the community. "A person who has no identity does not exist, and in Argentina we did not exist," explains Marcela Romero (interview in *Puntal.com.ar*, 5/11/12). Within the discursive frame of human rights, the gender identity law was apprehended as "a door of access to all other rights" (Diana Lavelle, interview in *El Puente* #56, 6/01/12). Therefore, the campaign focused on demonstrating the consequences that the lack of trustworthy identity papers had on the chances of exercising and enjoying citizenship rights –including political rights, the basis of democratic legitimacy.

In fact, all of the LGBT movement's demands were framed in the language of citizenship and human rights. Regarding the right to marry, for instance, it was systematically emphasized that much more than a ceremony and a party were at stake, as a huge amount of rights were associated to it –health insurance coverage, inheritance, pension after a partner's death, legal residence and the right to citizenship when one of the partners was foreign-born, joint acquisition of equity, legal protection and support in case of a divorce, joint adoption and transference of rights to children.

Having embraced the human rights discourse, it was only natural for the LGBT movement to draw analogies between their own struggle and those of other emancipation movements of the past, such as women's or African-Americans', as well as between the proposal of a separate legal institute for homosexuals and the South African apartheid regime. In the same vein, identification with persecuted Jews was outlined in the context of the congressional debates in which LGBT activists were the targets of offensive expressions that Argentine law would not have allowed if directed against Jews.

Given the political efficacy of the human rights discourse, the opposition to equal marriage also tried to appropriate it to legitimize its positions. ACIERA, a network of evangelical churches, proclaimed the existence of a contradiction between the proposed reform and the principles contained in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the Inter-American Convention on Human Rights. Legislators and activists mobilized against same-sex marriage aimed to appear as standard-bearers of the human rights of children -whose healthy development, they argued, depended upon their being part of a "normal family" with "a mom and a dad"- and to spark a controversy around adoption. This attempt was repelled by LGBT activism with two arguments: that the new law would not modify the current adoption regime, which already enabled adoption by homosexual individuals; and that homoparental families already existed and all that was asked is that they be granted equal legal recognition and protection. A lesbian activist and mother of triplets put it as follows:

We are not asking for permission to start a family: our family already exists. What we are asking for is that our children have the same rights as the children of any other family (Silvina Maddaleno, interview in *P/12*, 11/15/09).

### Real people vs. abstract concepts

Throughout the debate, opponents to equal marriage insisted that what was truly at stake was the "concept of marriage" and that reality needed to fit into the definition and etymology of the word. The LGBT organizations, in turn, tried to show that it was the rights, wellbeing and happiness of real people what was at stake. Therefore, their arguments in terms of rights were typically accompanied by first-person descriptions of the brutal impact caused by the lack of rights.

The media contributed with the plentiful diffusion of "life stories" with an emphasis on injustice, suffering, perseverance and love. The protagonists of those stories looked like they had been born to be on television: middle class youth, pleasant and educated; professional women, the mothers of beautiful children; nice old ladies whom anyone would like as neighbors.

A similarly powerful effect was produced by two key interventions that took place before the congressional votes. The first was a speech by a socialist representative who identified himself as the father of a gay son and protested against the injustice that his homosexual son did not have the same rights as his heterosexual one. According to Augsburg, this speech “helped change several wills” (*P/12*, 5/06/10). In turn, just before the Senate vote a letter was made public that a teenager had addressed to the senators, in which he told them about his (perfectly normal and happy) life as the son of a gay father, of whom he declared to be proud and to whom he offered his wholehearted support (*P/12*, 7/14/10).

### **Conclusion: A new egalitarian common sense?**

The speed of change surprised both participants and observers. The struggle for equal marriage and gender identity, however, began well before the bills were introduced. The processes to get these laws passed, laborious in themselves, were the result of a much longer process of organization and visibilization of the community, discourse production and articulation of alliances. As a result, what had been unthinkable just a decade earlier eventually became real. In the early 2000s, the maximum realistic aspiration was that of extending civil union to the national level; marriage was outside the realm of the possible. Even in the mid-2000s the idea that the public health system could provide sexual reassignment surgeries –at the time still banned - seemed like fantasy. So fast were the changes that today “it is difficult for the very young people to get to understand the suffering of gays, lesbians and transvestites just ten years ago. Luckily” (Marcelo Suntheim, interview in *El Puente* #17, 9/02/11).

What made this change possible? Key to the movement’s success were its unity – which translated into a considerable ability to overcome internal differences- and its diversity – the fact that it comprised a variety of organizations representative of specific subgroups, focused on different topics and capable of turning into the visible face of each of the movement’s demands. It is worth noting the trajectory -from victimization to action- followed by the trans community, which now has its own organizations led by transsexuals and transvestites, its own agenda and a demonstrated ability to work on behalf of their target population.

An additional factor was the movement’s considerable skill in building alliances with other movements (the women’s movement firstly, but also workers’ and students’) and to gather the support of a wide spectrum of actors holding various forms of social capital: academics, researchers, scientists, artists, journalists. Also important was the deep transformation undergone over the previous decades by the self-definition of the political left and, consequently, by its view of sexual diversity. In marked contrast with the leftist ethos of three decades ago, it is now common sense indeed that “you cannot be on the left and be sexist or xenophobic, [...] racist, homophobic” (Pedro Zerolo, interview in *P/12*, 7/16/06).

The formation of a social consensus around the LGBT demands was impelled by at least two main factors. One was its framing of the claim in the language of human

rights, within a national context that was highly sensitive to such appeals as well as relatively secularized. A convincing articulation of this discourse even allowed the LGBT movement to appropriate a topic most dear to conservatives: the defense of family and child. The second factor is the role played by the mass media, and particularly by television. Journalistic coverage was mainly favorable to the movement and awarded an unprecedented visibility to the community, via stories of love and suffering and memorable debates -in which another asset of the movement also appeared: well-prepared, articulate leaders and activists. This was how debate and conversation on the issues involved entered the home.

Furthermore, the conversion of social consensus into legal mandate was possible thanks to the presence of a set of (mostly female) allies who played key roles in the legislative, executive and judicial branches of government. Finally, a virtuous circle seems to have been formed as a result of interactions between cultural and legal change. Indeed, for legal change to start in the first place “there had to be a [prior] change and an opening; even many people from LGBT organizations were surprised at the social consensus that existed –at least in the big metro areas” (Santiago, interview 8/06/12). The exhibition of social consensus was key in getting the political system moving towards legal change.

In turn, the increased visibility generated by the new laws seems to have further changed the social perception of homosexuals and transsexuals; in that sense, the effects of legal change spread well beyond those who made or intend to make direct use of the new institutions and benefits:

The [equal marriage] law opened [...] a window of opportunity for a change in social customs and traditions. It brought the opportunity for some people to talk at home. And if they can get married, why wouldn't they be able to walk on the streets holding hands? This law continues to create opportunities [...] for more acceptance, more recognition. [...] [Many people] came out of the closet during the past one and a half years (Ibid.).

As a result of the educational dimension of the law, “the new generations will grow up within the normalcy of equal marriage, just as today they do so regarding female vote,” predicts the CHA president (cf. *CL*, 8/09/10). Meanwhile, several tasks remain: monitoring the implementation of the new laws; promoting public policies allowing for the translation of legal equality into equality of treatment and opportunity; claiming other rights included under the umbrella of sexual rights (especially that of abortion, demanded by the LGBT movement's main allies); and fighting against other forms of inequality and discrimination. Besides the usual obstacles, though, an additional one conspires against getting the job done: the movement's demobilization and loss of unity that was the result of its great victory.

Demobilization comes naturally after you have achieved your highest goal. [...] [When you further a new demand] politics itself tells you “well, your community already got almost everything...” [...] Society itself tells you “OK, it's done, stop.” [...] The other day a cab driver asked me: “What else do you want now?” (Ignacio, interview 8/01/12).

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