

MOUNT HOLYOKE COLLEGE

Sí, quiero: The Legalization of Same-Sex Marriage in Argentina

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Abstract

On July 15, 2010, Argentina became the first Latin American country and only the tenth nation worldwide to legalize same-sex marriage at the national level. Situated in a region known for the influence of Catholicism, the *macho* man's domination of gender and sexuality norms, and massive human rights violations, Argentina seems an unlikely candidate after States like Canada and Norway. Therefore, what made Argentina's legalization of same-sex marriage possible?

This project breaks down the analysis of this question into four parts: first, the historical events that opened pathways through which sexual minorities could and can attain change; second, the Argentine cultural and social contexts and the opportunities and challenges they presented and present to sexual minorities; third, the creation and development of a social movement by sexual minorities; and fourth, how the excluded become the included through the nondiscrimination inherent in human rights. Along with this analysis of the past and present, the project also explores how the legalization of same-sex marriage can serve as a gateway to the recognition of other rights of sexual minorities in Argentina, as well as a case study for sexual minorities' rights efforts in other countries.

This study is based on primary (personal interviews conducted in Buenos Aires, Argentina) and secondary sources. The primary sources include information, ideas, and opinions of various Argentine sexual minorities organizations obtained through interviews with Argentine organizations working for the rights of sexual minorities. The secondary sources include publications from several disciplines and discourses including international human rights theory and gender studies.

This project discovers the conditions that were necessary for Argentina to create and achieve change such as the legalization of same-sex marriage by determining the key components of success. First, historical events instilled in the Argentine nation a prioritization of human rights. Second, the norms of Argentine culture and society were such that sexual minorities could challenge existing systems and practices to expose existing conditions in which gender and sexuality are in fact open to interpretation and variation. Third, gay rights were put on the human rights agenda and opportunity arose. Finally, with Law 26.618, the Argentine nation included previously excluded same-sex couples in the rights of marriage, adoption, and inheritance. The legalization of same-sex marriage was an important expression to the country's stance on human rights and the preservation of its democracy.

For sexual minorities' rights movements worldwide, this case study can provide valuable insight into the conditions necessary to attain marriage equality. The Argentine example can offer hope as well as the tools of success. In a world where gays, lesbians, bisexuals, and trans people face discrimination at a local, national, regional, and international level, this understanding is necessary. Human rights are the rights one has because one is human; if any human is denied those rights, it threatens the existence of "human" rights for everyone. Therefore, knowledge of how to keep moving toward the equal recognition of the rights of sexual minorities is essential to human rights for all.

Project Advisors

Professor Jon Western, Five College Associate Professor of International Relations

Professor Christian Gundermann, Associate Professor of Spanish and Gender Studies

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Dedication

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¡Felicitaciones!

Chapter I: Introduction

Sexual minorities around the world suffer discrimination on a daily basis, and Argentina is no exception. Until 2010, no national law existed to protect lesbians, gays, bisexuals, and trans people from such discrimination. Argentina culture and society, which value the heteronormative *macho* man, seem hostile to genders and sexualities with vary from the norm. The country is located in Latin America, a region known for the influence of Catholicism, a strong opponent of same-sex marriage. Along with other nations in the Southern Cone of South America, Argentina has suffered massive human rights violations at the hands of dictatorships in the last forty years. Given all of these circumstances, it seems unlikely that Argentina would legalize same-sex marriage at the national level. Nonetheless, on July 15, 2010, Argentina became the first Latin American country to do just that.

Argentina was the tenth country to recognize marriage at the national level, after Belgium, Canada, Iceland, the Netherlands, Norway, Portugal, South Africa, Spain, and Sweden. The only other Latin American country to even recognize same-sex marriage is Mexico, where same-sex marriages are only performed in the capital, but all Mexican states recognize these marriages thanks to a Supreme Court decision requiring them to do so.¹ Law 26.618 modified the Civil Code of Argentina to provide equal rights and recognition of marriage to same-sex couples, as well as stipulations regarding adoption by same-sex couples.

The debate began on July 14th, and the decision came just after 4:00am after hours of intense deliberation. Despite the chill of winter, people stood outside the Congress building awaiting the news. Around the world, people followed the news via live broadcasts from

¹ "Mexico Gay Marriage: Supreme Court Orders All Mexican States To Recognize Weddings Performed In Mexico City." Associated Press. 11 August 2010. Huffington Post online. 6 February 2011. <http://www.huffingtonpost.com/2010/08/11/mexico-gay-marriage-supreme-court_n_678016.html>.

Congress, Twitter and Facebook posts, and through direct contact with Argentine friends and relatives. Upon hearing the news, the crowd broke into joyous cheers. The day was a great success to the activists and lawmakers who had spent years working towards its realization. The announcement brought hope to sexual minorities in Argentina and throughout the world that true equality is possible.

So what made Argentina's legalization of same-sex marriage possible? When did the process begin, what empowered it, and what challenged it? How were those challenges ultimately overcome? Of all the nations in the world, how was Argentina the tenth to legalize the full equality of same-sex unions?

The struggle for nondiscrimination of sexual minorities in Argentina began over fifty years ago, as will be discussed in Chapter II Section 2 and Chapter IV. Since its humble beginnings, local and national efforts have grown, gaining impact through networking, collective action, alliances, and international lessons, into a powerful social movement. Throughout its history, the movement has suffered moments of loss and celebrated moments of success. Recently, there has been much to exult: Argentina's same-sex marriage bill was passed by the Chamber of Deputies on May 5, 2010, approved by the Senate on July 15, 2010, and signed by President Kirchner on July 22, 2010. For sexual minorities' rights movements worldwide, this case study can provide valuable insight to the (formation of the) conditions necessary to attain marriage equality. This project seeks to discover and analyze the circumstances which made the legalization of same-sex marriage possible in Argentina.

The right to marriage is a first generation human right² recognized in the Universal Declaration of Human Rights as well as the United Nations International Covenant on Civil and

² "First generation" human rights are civil and political rights pertaining to freedoms and participation in politics. "Second generation" rights are social, cultural, and economic rights that guarantee the equal treatment of citizens.

Political Rights.³ Struggles for the recognition of human rights such as the right to marriage may be placed within an international context by virtue of the universality of human rights: in order for rights to be human rights, all humans must have them. Furthermore, the history that created, developed, and articulated human rights was initially culminated by the United Nations, an international body. Therefore, the efforts of sexual minorities in Argentina to attain equal marriage rights had a place not only in the human rights discourse of Argentina, but in the international human rights movement as well. The systematic denial of human rights to sexual minorities is problematic for the entire system, as it paradoxically claims that all humans have human rights, while denying explicit protections and freedoms to some humans.

The International Human Rights Movement and the Exclusion of Sexual Minorities

The international human rights movement began in the aftermath of the horror of the Second World War. During the Second World War, the Holocaust targeted, tortured, and killed millions of Jews, gypsies, homosexuals, and other persecuted minorities. The world's reaction was not immediate; outrage on the part of Israel and others brought the genocide to the international stage for what it was, making it universally intolerable. Following the war, people began to use the phrase "never again" as a promise of protection to prevent another such tragedy

"Third generation" rights are less clearly defined; they go beyond second generation rights into, for example, group and collective rights. The human rights of sexual minorities are often described as "third generation rights;" however, from the perspective of the minorities themselves, equal civil, political, social, cultural, and economic rights are first and second generation, not third. Therefore, the right to same-sex marriage is considered a first generation right.

³ The right to marriage is not explicitly defined as marriage between a man and a woman; however, the most common understanding and definition of marriage today remains that between a man and a woman. At the time these documents were written, same-sex marriage was not considered, thus no explanation of what "marriage" meant was needed. All humans have the right to marry and form a family. Though this definition is vague, the ambiguity provides the opportunity for modern interpretation and application which includes same-sex marriage given that there is no explicit prohibition of it in these documents.

from ever occurring. As argued by Lynn Hunt: “Human rights are our only commonly shared bulwark against those evils.”⁴

The notion of human rights and violations of said rights existed far earlier than the phrase or concept was ever articulated. In their most basic form, human rights are “ideas about how individuals are entitled to be treated.”⁵ Human rights are “social constructions;” “[p]eople invented human rights.”⁶ Therefore, they “only become meaningful when they gain political content. They are not the rights of humans in a state of nature; they are the rights of humans in society.”⁷ Equality lies not in politics, laws, and justice, rather in the minds of the members of society who create such systems and standards.⁸

The United Nations formed in 1945 with a charter that “reaffirm[ed] faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small.”⁹ Additionally, “[a]fter the Second World War the transnational human rights advocacy network helped to create regional and international human rights regimes, and later contributed to the implementation and enforcement of human rights norms and policy.”¹⁰ Following the Holocaust, the protections (negative rights) and freedoms (positive rights) that guarantee a life of dignity were first articulated in the Universal Declaration of Human Rights, proclaimed in 1948. This set of human rights was then developed in the United Nations International Covenant on Civil and Political Rights (first generation rights) and the International Covenant on Economic, Social, and Cultural Rights (second generation rights)

⁴ Hunt, Lynn. *Inventing Human Rights*. New York: W. W. Norton and Company, 2007. pp. 212.

⁵ Sikkink, Katherine. *Mixed Signals*. Ithaca: Cornell University Press, 2004. pp. 4.

⁶ *Ibid.*, pp. 5.

⁷ Hunt, Lynn. pp. 21.

⁸ *Ibid.*, pp. 27.

⁹ Preamble. Charter of the United Nations. United Nations. 12 December 2010. <<http://www.un.org/en/documents/charter/preamble.shtml>>.

¹⁰ Keck, Margaret E. and Kathryn Sikkink. *Activists beyond Borders: Advocacy Networks in International Politics*. Ithaca: Cornell University Press, 1998. pp. 79.

in 1966; both treaties were implemented in 1976. Further international treaties, such as the Convention on the Elimination of Discrimination against Women (CEDAW), followed in the 1980s and 1990s. Despite all the progress that the international human rights movement has made since the 1940s, the discourse is still limited in its application, especially in terms of the human rights of sexual minorities.

Though homosexuals were included in those persecuted by the Holocaust, sexual minorities remain excluded from the promised protection of both negative and positive human rights. Sexual minorities suffer pervasive discrimination at local, national, regional, and international levels. Ingrained homophobia determines social, cultural, and political norms, denying the full rights and freedoms of citizenship to sexual minorities. This violation of sexual minorities' human rights threatens the foundation of the international human rights system because they are humans that lack recognition and respect of their human rights. Human rights are universal, indivisible, interdependent, and interrelated, and the foundation of human rights depends on the idea that "all human beings have certain basic rights simply because they are human"¹¹. As previously stated, the rights themselves cannot be separated or provided in part; they rest upon the base that they come as a guaranteed whole. Likewise, the theory rests on all humans having human rights, not select humans. Sexual minorities around the world "have to struggle not only against local attitudes and laws. They also face a body of international human rights law that accepts discrimination against them, in clear contradiction to the human rights logic of equality for *all*."¹² From laws that criminalize homosexuality and penalize offenders with sentences including the death penalty to social discrimination, the struggle to attain nondiscrimination and equality is one faced in every country. While the international human

¹¹ Donnelly, Jack. *Universal Human Rights in Theory and Practice, Second Edition*. Ithaca: Cornell University Press, 2003. pp. 27, 236.

¹² *Ibid.*, pp. 237.

rights system may support or supplement this struggle, “the central battlegrounds are local and national.”¹³ While international norms may be useful, “the very universality of human rights is dependent on a symbiotic relationship with domestic legal norms.”¹⁴ Though local and national movements are informed by other movements around the globe, and though international networks strengthen local and national movements, the current platform of sexual minorities is within each State.

The remainder of this chapter introduces the platform on which Argentine sexual minorities stand. This chapter situates this project in certain frameworks and definitions, establishing the foundations of the analysis. First, Section 1 describes the final legal process of the national legalization of same-sex marriage. Section 2 closely examines the main question of this project and introduces the “perfect storm” of conditions which may seem to make Argentina an unlikely candidate, but in fact were central to change. Section 3 describes the methodology and frameworks of the project, including a definition of the phrase “sexual minorities.” Section 4 places the efforts of these sexual minorities under existing theories and definitions of “social movements.” Finally, Section 5 offers a forward glance into the rest of the project, briefly introducing the themes of the rest of the chapters.

¹³ Ibid., pp. 238.

¹⁴ Tahmindjos, Phillip. “Laws and Sexual Identities: Closing or Opening the Circle?” *Sexuality and Human Rights*. Harrington Park Press, 2005. pp. 230.

Section 1: National Nondiscrimination of Sexual Minorities: The Legalization of Same-Sex Marriage in Argentina

In 2002, Buenos Aires, Argentina became the first Latin American city to legalize civil unions of same-sex couples, and four other cities later did the same.¹⁵ The Buenos Aires civil union bill was “initially celebrated as a huge victory for gay and lesbian rights.”¹⁶ Indeed, it was an important step in the process, though certainly not its end; “such partnerships don’t confer many rights exclusive to married couples, such as the right to adopt children in the name of both parents, to enable a partner to gain citizenship and to inherit wealth or be included in insurance policies.”¹⁷ The goal was equal rights, not a separate and unequal substitute; therefore marriage was the ultimate goal. Representative Vilma Ibarra, who co-sponsored the bill, stated: “A civil union is a link that grants certain rights, but not those available to a married couple, which only a national law can grant;” Ibarra considered the bill “the first round in a long process, but it is already a success to have it out there.”¹⁸ The course was set with equal marriage rights the destination.

In October of 2009, María Rachid, president of the Argentine Lesbian, Gay, Bisexual and Transgender Federation (FALGBT) said: “We can’t expect social equality if the state is legitimizing inequality. [...] We now have the social and political context necessary to change the law.”¹⁹ She and her partner, “Claudia Castro, were among the first same-sex couples in Buenos Aires to form a civil union - and the first to test Argentine law by applying for a

¹⁵ Orellana, Vanessa Hand. “Argentine Congress considers same-sex marriage.” Associated Press. 30 October 2009. Edge Boston. 15 February 2011. <<http://www.edgeboston.com/index.php?ch=news&sc=&sc2=&sc3=&id=98386>>.

¹⁶ Ibid.

¹⁷ Ibid.

¹⁸ Ibid.

¹⁹ Ibid.

marriage license in 2007;” they sued over their denial and took their case to the Supreme Court.²⁰ On December 29, 2009, Argentina hosted its first gay marriage. Gay activists Jose Maria Di Bello and Alex Freyre’s efforts to marry were at first blocked in Buenos Aires; a court approved their request, but it was later denied. They “took their civil ceremony to the capital of Argentina’s Tierra del Fuego province, where a sympathetic governor backed their bid to make Latin American history.”²¹ They were the first same-sex couple to marry in Argentina and in Latin America. Mr. Di Bello “helped ignite the discussion over a broader same-sex marriage law after he married Alex Freyre,” and by mid July, “100 Argentine couples have petitioned through gay activist associations for help in marrying.”²² On March 3, a second couple, Damian Bernath and Jorge Salazar, married in Buenos Aires,²³ although it was later declared illegal by one judge. The third same-sex marriage in Argentina, between 67 year old partners of 30 years Norma Castillo and Ramona Arevalo, which occurred April 9 “after getting the go-ahead from Judge Elena Liberatori,” was rejected.²⁴ Judge Martha Gomez Alsina granted “a petition by a Catholic attorney to declare the union ‘null and non-existent,’”²⁵ though this decision was ultimately overturned. The cases of these couples challenged existing laws, offering activists opportunities to demand recognition of their rights. The involvement of each of these couples with the government and court system enabled the movement to equip itself with more and more knowledge as these couples tested the waters.

²⁰ Ibid.

²¹ “Argentinian men become first same-sex married couple in Latin America.” 29 December 2009. The Guardian. 15 February 2011. <<http://www.guardian.co.uk/world/2009/dec/29/argentina-first-gay-marriage>>.

²² Barrionuevo, Alexei. “Argentina Senate to Vote on Gay Marriage.” 13 July 2010. New York Times. 18 February 2011.

²³ “Second gay marriage in Argentina.” 3 March 2010. AFP. 15 February 2011.

<http://www.google.com/hostednews/afp/article/ALeqM5jQoV_ctXiWM-0kpkWLH_tBRJDV6A>.

²⁴ “Judge declares ‘null and non-existent’ first lesbian marriage in Argentina.” 17 April 2010. MercoPress. 15 February 2011. <<http://en.mercopress.com/2010/04/17/judge-declares-null-and-non-existent-first-lesbian-marriage-in-argentina>>.

²⁵ Ibid.

Following the back-and-forth fight of these three couples, on April 15, the General Legislation and Family, Women, and Children committees approved the initiative to modify the civil code to permit marriage between same-sex couples to be negotiated in the upcoming session of the Chamber of Deputies.²⁶ The project passed in the lower house, the Chamber of Deputies, on May 5. On May 7, Florencio Randazzo, the Minister of the Interior, said that there were “no reasons” for the Senate to not follow the Deputies in their approval of same-sex marriage.²⁷

There were many reasons to approve the project and alter the civil code. This would be the first national law regarding the nondiscrimination of sexual minorities, the need for which was clear. Sexual minorities suffer discrimination and human rights violations at all levels, and national laws are the necessary component to ultimately ensuring their protection and then equality. In an interview on May 20, 2010, Marcelo Ferreyra, an important activist in the Argentine and sexual minorities’ rights movements, expressed these sentiments. Ferreyra highlighted the importance of nondiscrimination legislation at the state level, saying “the accomplishments that have been achieved, which are various, could be enjoyed at a national level. This has not yet happened and is important. I’m talking about protection against discrimination. [...] National laws are what would be needed.”²⁸ Argentina was well on its way.

Despite challenges, the progress continued. On May 14, Pope Benedict XVI called on people to concentrate their efforts on initiatives whose objectives were the essential values of life, such as “conception and family, based in the insoluble marriage between a man and a woman,” in hopes they would help “to respond to some of the most insidious and dangerous

²⁶ “Diputados ya puede tratar la ley de matrimonio homosexual.” 15 April 2010. Los Andes. 15 February 2011. <<http://www.losandes.com.ar/notas/2010/4/15/un-484245.asp>>.

²⁷ ““No hay razones’ para que el Senado no trate el matrimonio gay.” 7 May 2010. Diariodecuyo.com.ar. 15 February 2011. <http://www.diariodecuyo.com.ar/home/new_noticia.php?noticia_id=398975>.

²⁸ Ferreyra, Marcelo. Buenos Aires, Argentina. 20 May 2010. Translation is my own.

challenges that are faced today,”²⁹ further empowering religious fundamentalist homophobic efforts. Despite the church’s unchanging position, in an interview on June 3, María Rachid was sure that the Senate would pass the bill; she said: “We understand that the 14 of July it is probable that it will be approved in the Senate.”³⁰ Even at that time, the Federation was already preparing for its next goal, a law about gender nondiscrimination of trans people; they were sure Argentina would legalize same-sex marriage.

When the day arrived, pro-same-sex marriage Argentines and their supporters around the world anxiously awaited the news. After 14 hours of debate, at 4:06am on July 15, the Senate passed the bill, resulting in an eruption of excitement and celebration. On July 22, President Cristina Fernández de Kirchner signed the bill into law, making same-sex marriage legal in Argentina.

Section 2: Question: What made the legalization of same-sex marriage possible in Argentina?

The sexual minorities’ rights movement was empowered by a “perfect storm” of circumstances in which certain opportunities arose for sexual minorities. All of the necessary pieces of the puzzle are there: opportunities in moments throughout history, exposed weaknesses in culture and society’s hegemonies, a strong social movement, and a politicized human rights agenda. At first glance, however, Argentina may seem an unlikely candidate for the success of a sexual minorities’ rights movement and the legalization of marriage equality. From the outside looking in, it may seem puzzling that this legislation passed in Argentina. Why was it possible

²⁹ “El Papa condenó el aborto y el casamiento gay.” 14 May 2010. La Gaceta. 15 February 2011. <http://www.lagaceta.com.ar/nota/378548/Informaci%C3%B3n%20General/Papa_condeno_aborto_casamiento_gay.html>. Translation is my own.

³⁰ Rachid, María. Buenos Aires, Argentina. 2 June 2010. Translation is my own.

for the struggle for same-sex marriage to be won despite such obstacles that sexual minorities were up against? In a country where there are many social movements, but not all of them succeed in attaining their goals, how did the efforts of sexual minorities result in this victory? Argentina has a tumultuous history in regard to human rights, what with a military dictatorship in the 1970s and 1980s and its aftermath. Latin America is known for being a region where the Catholic Church, a staunch opponent of same-sex marriage, has influence. Elements of culture and society, such as *machismo*, the hegemonic masculine identity which oppresses homosexuality but embraces homosociality, place sexual minorities outside of the heteronormative sex/gender system.

Sexual minorities are discriminated against and persecuted not for acting, but for being (though this being may be “proven” through certain “acts”). Setting up this “other” requires establishing an “original,” in this case, heterosexuals. Sexual minorities found opportunities and alliances with those likewise deemed as “others,” somehow less deserving of their human rights, such as the victims of the 1976-1983 military dictatorship (detailed in Chapter II Section 3), who suffered common persecution and discrimination and collectively composed a significant portion of the population. Actively denied necessary rights and freedoms, sexual minorities began to organize and act. The counter-efforts of sexual minorities developed into a social movement. While the movement has been successful, this success did not occur in a vacuum. The movement utilized historical pathways, notably the human rights legacy, embraced by society and culture to build their efforts. Additionally, it is these factors that set the case of sexual minorities in Argentina apart from similar movements, allowing them to attain the legalization of same-sex marriage. In addition to analyzing the movement itself, it is important to explore the contexts in which it was created, permitted, and ultimately embraced. The movement will be

analyzed fully in Chapter IV, From *Oculto* to *Orgullosa*, The Movement, following the establishment of the historical, social, and cultural contexts in which it developed in Chapters II and III.

Javier Corrales argues that “Argentina has many of the conditions that, research has shown, go hand in hand with more pro-gay legislation;”³¹ however, these conditions are not sufficient, as many countries have them. The conditions include: modernization in the form of urbanization and high education, civic organizations and social movements, a “left of center” party in the presidential office, and a “gay-friendly main city.”³² The public education system is so strong and successful that citizens will not, for example, go to a doctor who has studied at a private university instead of a public one. The country is full with active and visible nonprofits, nongovernmental organizations, and social movements covering a wide variety of causes. Protests occur constantly on the streets of Buenos Aires. The Argentine people are not one to sit back complaining and waiting for change to occur; if they have an issue, they will express it, address it, and work however possible to attain change. The current president, Cristina Fernández de Kirchner, and the former president, her late husband, Néstor Carlos Kirchner, are part of the Argentine Partido Justicialista (PJ), or Justicialist Party. The specific role of the Kirchners in the legalization of same-sex marriage will be described in Chapter II, Section 5. Former presidents Carlos Menem and Eduardo Duhalde were also members of the PJ. The PJ, a Peronist party, was founded by Juan and Eva Perón in 1947, replacing the Labor Party with a platform focused mostly on populism. The PJ comprises a large portion of the Peronist movement today. Lastly, Buenos Aires has come to be known as a “gay-friendly” vacation destination. There are even “gay” maps of the city which mark gay bars, milongas, clubs, and

³¹ Corrales, Javier and Mario Pecheny. “Six Reasons Why Argentina Legalized Gay Marriage First.” *Americas Quarterly*. 9 November 2010. <<http://www.americasquarterly.org/node/1753>>.

³² *Ibid.*

cultural centers. Nonetheless, there are not rainbow flags flying as one might imagine of city known as such for its “gay-friendly” environment. The most visible presence of the local gay culture, the Pride parade, occurs every spring. Otherwise, the culture of sexual minorities’ is more understated, reserved for specific set aside spaces.

All of these conditions are important to the legalization of same-sex marriage; however, several characteristics are also true of many other countries, including the United States, which currently has national legislation against same-sex marriage. The United States, for example, is urbanized, has a plethora of colleges and universities, incumbent president Barack Obama and the Democratic party are left of center, and the capital, Washington, D.C., is sufficiently gay-friendly. To understand why it was possible to legalize same-sex marriage, the uniqueness of the Argentine case must be determined and explored. Therefore, this study turns to other conditions, including the particular historical context, society and culture, especially gender and sexuality, and the role of human rights.

Section 3: Methodology and Frameworks: An Interdisciplinary Approach to the Human Rights of Sexual Minorities

This project breaks down the analysis of this question into four parts: first, the historical pathways which opened pathways in which sexual minorities could and can attain change; second, the Argentine cultural and social contexts and the opportunities and challenges they presented and present to sexual minorities; third, the creation and development of a social movement, or several social movements, by sexual minorities; and fourth, how the Argentine human rights context embraced efforts to make the excluded become included at a national level. Along with this analysis of the past and present, the project also explores how the legalization of

same-sex marriage can serve as a gateway to the recognition of other rights of sexual minorities in Argentina.

Research and Interdisciplinary Approach

This study is based in primary (personal interviews conducted in Buenos Aires, Argentina) and secondary. The primary sources include information, ideas, and opinions of various Argentine sexual minorities organizations obtained through interviews with the International Gay and Lesbian Human Rights Commission IGLHRC)³³, Federación Argentina LGBT (FALGBT), Lesmadres, and Centro de Estudios Técnicos y Jurídicos GLBT (CETJU.GLBT) during an independent study project entitled “*Otra condición social’: Todos los derechos para todxs, Un estudio de caso de los derechos humanos de minorías sexuales en la Argentina*” (“Other Status”: All Rights for All, A Case Study of Human Rights of Sexual Minorities in Argentina”). The research of “*Otra condición social*” was conducted between March 1-June 14, 2010, with the field work, including interviews, occurring in May and June, during the important interim time in which activists were awaiting the upcoming Senate vote on the marriage bill. Many of my contacts for interviews were recommended by Florencia Gemetro, who advised the project. The study also takes into account the opinions of members of the Argentine community of sexual minorities for further context. My research is contextualized by informal participant observations with the community which serve to offer an idea of the daily life of the *GLBTTT*³⁴ community in Buenos Aires.

³³ I also worked at the International Gay and Lesbian Human Rights Commission’s headquarters in New York the summer of 2010 as an e-Philanthropy and Development Intern, which furthered my understanding of the purpose and operations of this particular organization.

³⁴ *GLBTTT* (*GLBT, LGBT*): *Gay, Lesbiana, Bisexual, Transgénero, Transexual, Travesti, Intersex*. English version: *LGBTQQI* (*LGBT, GLBT*): *Lesbian, Gay, Bisexual, Trans, Queer, Questioning, Intersex*.

The secondary sources include publications from several disciplines and discourses including international human rights theory, sociology, gender studies, and politics. Many of these sources were obtained in Argentina, from local organization members, bookstores, archives, and newspapers. This interdisciplinary approach is necessary to achieve a complete analysis. Where there may be blind spots in one discipline, this project interrogates each discipline in conversation with other disciplines, problematizing to provide a more complex and thorough understanding. Through analysis of Argentine history, culture, society, the Argentine sexual minorities' rights movement, and human rights in theory and practice, this project seeks to uncover the conditions necessary to create and achieve change such as the legalization of same-sex marriage. I will examine the possibilities this produces for future goals of the community. Finally, I will propose ways in which the Argentine case can serve as an example to other movements around the world hoping to achieve equality for sexual minorities.

The Term "Sexual Minorities"

In this project, the phrase "sexual minorities" is used to represent those who identify as gay, lesbian, bisexual, *travesti*, trans (transgender and transsexual), queer, questioning, pansexual, and intersex. Members of the community referred to in this project as "sexual minorities" do not identify as such; they are far more likely to identify with a more widely known term, such as "gay" or "lesbian," if they identify with a certain term or label at all. Many of these identities are commonly grouped into acronyms such as GLBT[QQI]. Especially [a]mong activists in these communities, the formula of 'gay, lesbian, bisexual, and transgendered

(GLBT)' has considerable currency at the moment."³⁵ However, while "GLBT" is more inclusive than "gay" or "homosexual," as Jack Donnelly argues:

"this formulation has the virtue of emphasizing *differences* among those who engage in same-sex erotic behavior or relationships, and by explicitly including transvestites and transsexuals it undermines conventional links between sex (defined by genitalia or chromosomes), behavior, gender, sexual orientation, and personal identity."³⁶

Donnelly adopts the phrase "sexual minorities" to mean "those despised and targeted by 'mainstream' society because of their sexuality (and, in most cases, for transgressing gender roles)."³⁷ The use of the phrase in this project is intended to allow wider-based self-identification within sexuality spectrums in an attempt to avoid the imposition of labels and binary oppositions onto individuals and groups. Therefore, the phrase permits and accepts those who do not identify or fit with these identities and labels, as well as those who do not identify or fit with "man" and "woman" within the contexts of sex, gender, identity, self-identification, and or performance or presentation (masculine or feminine). It includes those who challenge conventional sexuality and gender norms and therefore do not conform to the gender binary or heteronormativity.

It is important to note that the language of sexual minorities has largely been imported into Spanish from English. Alternatively, *travesti*, for example, is an identity that is imperfectly translatable from Spanish to English; at best, it translates to "transvestite" or "drag queen/king." Furthermore, given that "[t]o alienate conclusively, *definitionally*, from anyone on any theoretical ground the authority to describe and name their own sexual desire is a terribly consequential seizure,"³⁸ this project does not seek to remove from any individual or group their right no name and define themselves.

³⁵ Donnelly, Jack. pp. 229.

³⁶ Ibid.

³⁷ Ibid.

³⁸ Sedgwick, Eve K. *Epistemology of the Closet*. Los Angeles: University of California Press, 1990. pp. 26.

The term “sexual minorities” will henceforth be open to those who, “[l]ike victims of racism, sexism, and religious persecution, [...] are human beings who have been identified by dominant social groups as somehow less than fully human, and thus not entitled to the same rights as ‘normal’ people, ‘the rest of us.’”³⁹ Regarding the state and identity, “the state makes ‘dissidents,’ creating common cause and thus an identity” for individuals and groups.⁴⁰ That is, “the action of the state creates these collective identities and sets boundaries of a dissident collective.”⁴¹

This “otherness” is based in a certain social dynamic that places one (in this case, heterosexuals) as the center, the other (sexual minorities) as the supplement.⁴² In this project, the use of the phrase in this project is meant to be open to human fluidity and personal agency, acknowledging and interrogating identity. However, the current system is one that assumes more fixed identities within binaries. It is important to note that these “[f]ixed identity categories are both the basis of oppression and the basis of political power.”⁴³ The “otherness” of sexual minorities excludes them from society as a while, but is the basis of their collective identity. This creates a paradox in which two contrary views of sexual minorities, first, the universalizing view, and second, the minoritizing view, exist simultaneously in society and politics.

Universalizing v. Minoritizing Views

In *Epistemology of the Closet*, a foundational work in United States’ queer theory, Eve Kosofsky Sedgwick argues that understandings of (primarily male) homosexuality in Western

³⁹ Donnelly, Jack. pp. 229.

⁴⁰ Meyer, David S., Nancy Whittier, and Belinda Robnett. *Social Movements: Identity, Culture, and the State*. New York: Oxford University Press, 2002. pp. 13.

⁴¹ Ibid.

⁴² This concept is based in Jacques Derrida’s “figure-ground” theory.

⁴³ Gamson, Joshua. “Must Identity Movements Self-Destruct? A Queer Dilemma.” *Social Problems*, Vol. 42, No. 3. Berkeley: University of California Press on behalf of the Society for the Study of Social Problems, 1995. pp. 390. 8 November 2010. <<http://www.jstor.org/stable/3096854>>.

culture are both “universalizing” and “minoritizing.” Sedgwick discusses two views on “the contradiction between seeing homo/heterosexual definition.”⁴⁴ The first view sees it “as an issue of active importance primarily for a small, distinct, relatively fixed homosexual minority,” which Sedgwick calls “minoritizing.”⁴⁵ That is to say that homosexuals’ issues are only their concern as a small group that are not matters to be addressed by the majority. The second sees it “as an issue of continuing, determinative importance in the lives of people across the spectrum of sexualities,” which Sedgwick calls “universalizing.”⁴⁶ The contradiction is therefore conversely also the concern of everyone, not just a limited and defined group of homosexuals. Sedgwick does not seek to “adjudicate between the two poles” of this contradiction, rather “to make the strongest possible introductory case for a hypothesis about the centrality of this nominally marginal, conceptually intractable set of definitional issues to be important knowledge and understandings of twentieth-century Western culture as a whole.”⁴⁷

Though Sedgwick was writing about Argentina, the theory can be applied to it, particularly given the significant exportation of queer theory from the United States to Argentina. The two contradictory views exist in Argentina as well. On one hand, the rights of sexual minorities are seen as a sexual minorities’ issue. Argentine sociologist Ernesto Meccia writes: “In Argentina, homosexuality, at the beginning of democracy, was not considered as a “social” matter, to the extent it only affected a minority.”⁴⁸ However, on the other hand, the rights of sexual minorities are important for the rights of all sexualities. Rights that are brought into question regarding same-sex marriage include the right to be treated as an equal, offered the

⁴⁴ Sedgwick, Eve K. pp. 1.

⁴⁵ Ibid.

⁴⁶ Ibid.

⁴⁷ Ibid., pp. 2.

⁴⁸ Meccia, Ernesto. *La cuestión gay: un enfoque sociológico*. 1ª Edición. Buenos Aires: Gran Aldea Editores (GAE), 2006. pp. 59. Translation is my own.

same rights and afforded the same protections, the right to marriage and a family, and the right to privacy.

According to the minoritizing view, same-sex marriage would not impact heterosexual marriage. It would be seen as something separate and would not be the concern of the heteronormative majority. The universalizing view, however, is the homophobic one that believes same-sex marriage threatens heterosexual marriage: “The fact that heterosexual marriage seems to be threatened by the idea of gay marriage is a testimony to the fact that there is a universalizing aspect to the definition of sexual minorities.”⁴⁹ Argentina has shown to be less homophobic in its beliefs and policies in this way as compared to many other nations. While the argument was made on the floor during the Senate’s debate,⁵⁰ it was overwhelmingly outweighed by supporters, and by an opposition that wished to reserve marriage for heterosexual couples for reasons other than a perceived “threat” caused by sexual minorities.

Sedgwick uses the example of gay bashing to explain this “threat.” She calls it “homosexual panic”: “a defense strategy that is commonly used to prevent conviction or to lighten sentencing of gay-bashers.”⁵¹ When her work was published, this so-called “homosexual panic” could be applied as a judicial defense, implying that, for example, a gay-bashing man had diminished responsibility for his crime due to a “pathological psychological condition, perhaps brought on by an unwanted sexual advance from the man whom he attacked,” though no similar “race panic” or “gender panic” was accepted.⁵² “Homosexual panic” is even larger than this, however. Often, when a gay man or lesbian woman comes out to friends, friends of the same sex

⁴⁹ Gundermann, Christian. Note. March 2011.

⁵⁰ During the debate, one person remarked that if gay marriage passed, “[what would be next]?” warning and fearing that people would be soon be able to marry multiple people “[like the Muslims]” and other homophobic and xenophobic claims. Live Online Feed from Argentine Senate Debate on Same-Sex Marriage. 14 July 2010.

⁵¹ Sedgwick, Eve K. pp. 19.

⁵² Ibid.

may fear or even ask if that friend was or is romantically or sexually interested in them. here the friend is assuming that gay men are interested in all men or that lesbians are interested in all women. Homosexuals are often prevented from working with children for fear of sexual abuse. This assumes that all homosexuals are pedophiles. In these two examples, fears about gays and lesbians are universalized to apply to all gays and lesbians, even all sexual minorities. Such “homosexual panic” is often at the heart of same-sex marriage debates; those who oppose same-sex marriage often express fears such as: “what will come next,” “gays aren’t fit to raise children,” “they’ll destroy the institution of marriage and the traditional family,” and so on. In this way, same-sex marriage becomes a universal issue, because the minority is perceived as a threat to the majority. Furthermore, all members of said minority are perceived to be threatening. This “homosexual panic” is often addressed implicitly if not explicitly by sexual minorities in their efforts to combat homophobia and attain rights such as the marriage equality.

Human Rights of Sexual Minorities

Resting on the foundation that all humans have the rights determined to be “human rights,”⁵³ the discourse and theory provides a common standard. While there may not be a universal consensus on the definitions or interpretations of the freedoms and protections afforded by human rights, the treaties of present in the international framework provide an unparalleled articulation of that which is necessary to a life of dignity. To deny any human their human rights requires unfaultable justification⁵⁴ to stand as “legitimate,” as violating a person’s human rights is violating their dignity. To deny sexual minorities their human rights requires an assignment of

⁵³ Donnelly, Jack. pp. 236.

⁵⁴ Wintemute, Robert. *Sexual Orientation and Human Rights*. Great Britain: Clarendon Paperbacks, 1998. pp. 1.

a status that is somehow lesser than other humans.⁵⁵ Human rights frameworks provide sexual minorities uniquely powerful grounds from which to make their claims: Why are sexual minorities any less deserving of a life of dignity, if they are equally human?

The framework is particularly poignant and applicable in the case of Argentina, whose government incorporated the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, International Covenant on Economic, Social, and Cultural Rights, and other human rights treaties into its national constitution. Therefore, in Argentina, human rights are a constitutional matter; violations of human rights are unconstitutional. This provides an important opportunity for sexual minorities to utilize in the claiming of their rights both as human beings and as citizens of Argentina. Argentina cannot risk denial or violation of human rights; recognizing the relationships of same-sex couples as equal to heterosexual couples acknowledges the equal humanity of sexual minorities, and therefore their equal access to human rights.

As opposed to the rest of society, for sexual minorities, the relation between nationality and citizenship is broken; as people born within the territory of a State, while they have nationality, due to their sexual orientation, they cannot exercise or access (all of) the rights of citizenship.⁵⁶ Sexual minorities must work to connect their nationality with all the rights of their citizenship. In the case of Argentina, given that the human rights discourse is incorporated into the constitution, the connection should theoretically be simpler to make. However, it is important to note that while a state that includes human rights in the very threads of its law would ideally be a shining example in regard to its respect for human rights, Argentina also

⁵⁵ Donnelly, Jack. pp. 229.

⁵⁶ Meccia, Ernesto. pp. 115. Translation is my own.

highlights the imperfections of international human rights: sexual minorities still must fight to attain their rights. This struggle is a central element examined in this project.

Due to the fact that the human rights of sexual minorities are systematically violated, it is up to sexual minorities and their allies to advocate for their freedoms and protections. The top-down approach still fails to include sexual minorities, as international treaties and laws do not explicitly address them. Therefore, the bottom-up grassroots approach is taken by gays, lesbians, bisexuals, and trans people around the world. Such is the case in Argentina, for although human rights are national law, sexual minorities are still not explicitly included and thus remain excluded from the Constitutional freedoms and protections of citizens. To demand recognition of their rights, sexual minorities formed a social movement over fifty years ago that thrives today and is largely responsible for the success of the same-sex marriage bill.

Section 4: The Local Efforts of Sexual Minorities as a Social Movement

Eight years before same-sex marriage was legalized, Stephen Brown wrote that “Argentina hosts a lesbian, gay, bisexual, and transgender movement that is sometimes quite visible and results in concrete political advances.”⁵⁷ Sexual minorities have formed a collective identity, taken collective action, and built networks before, through, and in result of these processes. As will be fully explored in Part II: From *Oculto* to *Orgullosa*, The Movement, the sexual minorities’ rights movement in Argentina fits theoretical definitions of social movements, and therefore can be analyzed as such.

⁵⁷ Brown, Stephen. “Con discriminación y represión no hay democracia: The Lesbian Gay Movement in Argentina.” *Latin American Perspectives*. Vol. 29, No. 2, Gender, Sexuality, and Same-Sex Desire in Latin America, Sage Publications, Inc. March 2002. pp. 119. 12 April 2010. <<http://www.jstor.org/stable/3185130>>.

Defining Social Movements

Sidney Tarrow, a prominent social movement theorist, argues for the reservation of the term “social movement” for “those sequences of contentious politics that are based on underlying social networks and resonant collective action frames, and which develop the capacity to maintain sustained challenges against powerful opponents.”⁵⁸ Tarrow argues that contentious collective action is “the basis of social movements,” and such actions “challenge powerholders, produce solidarities, and have meaning within particular population groups, situations and national cultures.”⁵⁹ While the sexual minorities’ movement has the characteristics of a social movement according to existing theory, the case of sexual minorities is unique and must be taken under special consideration.

Placing Argentine Sexual Minorities Under Existing Definitions

Stephen Brown notes that “[n]ot even the latest syntheses of contemporary social-movement theory discuss lesbian and gay movements to any significant degree,” and that “[e]ven the most important works on ‘social theory’ tend to ignore sexuality.”⁶⁰ This project takes existing definitions and applies them to the sexual minorities’ movement in Argentina as a foundation. The project then builds upon that foundation utilizing resources from other disciplines which specifically address sexuality, particularly sexuality as an identity. In the case of Argentina, Brown argues that the sexual minorities’ movement must be linked to “democratization, the human rights discourse, and the international dimension.”⁶¹ This project works within the international human rights framework, intentionally linking it to sexuality.

⁵⁸ Tarrow, Sidney. *Power in Movement*. United Kingdom: Cambridge University Press, 1998. pp. 2.

⁵⁹ *Ibid.* pp. 3.

⁶⁰ Brown, Stephen. pp. 119.

⁶¹ *Ibid.*, pp. 126.

The Uniqueness of Sexual Minorities' Social Movements

Brown also argues that “[w]hen studying lesbian and gay movements, one should not conceive of them as one might other so-called new social movements” because they are based in a complex identity that is not so easily united as identities often are in social movements.⁶² Therefore, this project also interrogates identity not solely as a pre-conceived notion or an imposed assumption, rather as an evolving component of humans and therefore human rights. As sexual orientation is not explicitly protected as a human right, sexual minorities worldwide must struggle to attain nondiscrimination and equality. Sexual minorities struggle against a variety of sources, including the state, culture, and society, which discriminate against them.

The sexual minorities’ movement in Argentina was born out of and to this day acts in the context of “the co-existence of contrasting value systems and of groups in conflict with each other.”⁶³ Their relationship with the state and its actors has been a challenging one.⁶⁴ The movement built social networks, gaining strength and effectiveness learning from one another, uniting, and fighting as a larger group. Eventually, the movement developed what Tarrow describes as a social movement’s “capacity to maintain sustained challenges against powerful opponents.”⁶⁵ They fight because sexual minorities are denied their basic human rights due to social constructs that categorize them as an inferior minority. Many suffer discrimination that is not directly challenged by the legalization of same-sex marriage; indeed, there are differences within the community of sexual minorities. The sexual minorities’ movement challenged social powerholders and produced solidarities based on their similarities, from which they form a collective, and their differences, based on which they lack recognition of specific rights yet to be

⁶² Ibid., pp. 134.

⁶³ Della Porta, Donatella, and Mario Diani. *Social Movements*. Second Edition. Massachusetts: Blackwell Publishing, 2006. pp. 13.

⁶⁴ Brown, Stephen. pp. 123.

⁶⁵ Tarrow, Sidney. *Power in Movement*. pp. 2.

recognized. Due in part to the strength and power found in a collective identity, networking, and collective action of sexual minorities, same-sex couples can now marry in Argentina.

Section 5: A Forward Glance

The remainder of this project is divided into five chapters, each establishing an important element that made the legalization of same-sex marriage possible. First, pathways were forged at particular moments and in certain contexts. Second, a powerful social movement formed thanks to the influence of other gay rights movements in the world, as well as local sexual minorities' need and demand for rights, protections, and freedoms. Third, Argentine society and culture reinforced those historical pathways, further empowering sexual minorities' access to these avenues, particularly in regard to views on sexuality and gender. Fourth, the human rights agenda provided a simple and justifiable platform: if human rights are the rights one has simply because one is human, then all humans deserve human rights; furthermore, denying rights to some endangers rights for all. Finally, these key factors that led to the success of sexual minorities in Argentina through the legalization of same-sex marriage may impact the success of future goals of the movement as well as the goals of other movements around the world.

Beginning in the 19th century, historical pathways were opened in Argentina. *Chapter II, Products of Our Past, Formation of Current* context, highlights the 1853 Constitution, the sexual minorities' rights movement, the 1976-1983 military dictatorship, the human rights agenda created in its wake, the election of Néstor Carlos Kirchner, president from 2003-2007, and his wife who took his place and holds the office today. Each of these historical moments created avenues for sexual minorities to gain power, presence, and ultimate response to their demands.

The consequences of this history are discussed, as well as the implications of these impacts, especially within the context of human rights.

The role of gender and sexuality in Argentine culture and society is central to the rights of sexual minorities. *Chapter III: "It Takes One Man and One Woman to Tango," Gender and Sexuality in Argentine Culture and Society*, explores the themes of identity, *machismo*, the dichotomy of private and public, and the role of the Church. Though Argentina may at first seem solely heteronormative and macho male-dominated, there are venues through which gender and sexuality may be explored and interpreted beyond that which is the hegemonic "norm." Gender studies theory is particularly applied in this section to examine such complexities as the role of the public and private spheres in Argentina.

Local sexual minorities formed a powerful social movement. *Chapter I, Section 4: The Local Efforts of Sexual Minorities as a Social Movement*, places and interrogates this movement within existing social movement theory. *Chapter IV, From Oculito to Orgulloso, The Movement*, fully explores the movement itself, describing the formation of a collective identity, networking (including internationally), and collective action of local actors. The development of the movement is examined through the analysis of interviews with actors of the movement in the form of interviews and other close research. The chapter also establishes how these actors achieve social and legislative change. This chapter follows the movement through its history to determine the key components to its success over time.

The politicized human rights agenda in Argentina provided the legal route to achieve legalized nondiscrimination for sexual minorities. *Chapter V: Todos para todos, All or Nothing: Utilizing Human Rights to Include the Excluded* establishes respective positions on this nondiscrimination, brings in the international human rights framework in which the Argentine

agenda is situated, and why specific national legislation was required to achieve equality for same-sex couples. These respective positions on nondiscrimination and obstacles to the inclusion of sexual minorities are carefully examined and applied to the Argentine case, determining how and why the collective fight for human rights resulted in success.

The legalization of same-sex marriage was the first national law to afford rights and protections specifically to same-sex couples. This legal recognition of the equality of same-sex couples serves as a foundation from which more rights of other sexual minorities can be achieved. *Chapter VI: The Courage to Change the Things We Can: Conclusions and Recommendations* explores what we can learn from the Argentine case to apply in theory and practice to other countries with sexual minorities seeking similar legislation.

Chapter II: Products of Our Past, Formation of Current Context

There are five main events that created historical pathways utilized by the Argentine sexual minorities' social moment to achieve change. Without these events, it is unlikely that same-sex marriage would have been legalized in Argentina, as each played a central and essential role in the success of the legislation. Each event established a pathway that had direct influence on sexual minorities and their efforts to attain equal rights, forever shaping the context in which they would live and demand nondiscrimination and equality. First, the 1856 Constitution of Argentina non-criminalized homosexuality, (distinct from decriminalized given that it was never criminalized), establishing a base of tolerance some nations are still struggling to achieve. This tolerance is the necessary first step in any effort to achieve the nondiscrimination of sexual minorities. Second, the importation of gay rights ideas and ideals in the 1960s brought important tools and tactics to local groups. The resulting empowered gay rights movement is largely responsible for the legalization of same-sex marriage; without the movement's efforts, it is unlikely that legislation would have ever reached debate, let alone passed.

Third, the military dictatorship of 1976-1983 devastated Argentina, rocking the nation to its very core. The rebirth of democracy which followed the dictatorship brought support for true human rights recognition, respect, and responsibility among the Argentine people and politics. The longing of "nunca más," never again, became a promise and a principle at the heart of Argentina and its policies, assuring the nation that people would thereafter be protected. Fourth, a politicized human rights agenda grew out of dictatorship's aftermath beginning in the mid to late 1980s and early 1990s. Human rights treaties were incorporated into the Argentine Constitution in 1994, making human rights a constitutional matter. Fifth, the

Kirchner presidencies, beginning with the late Néstor Kirchner on May 25, 2003 and continuing today with his wife Cristina Fernández de Kirchner, made human rights central to their policies. Néstor Kirchner was and Cristina Fernández de Kirchner remains a strong supporter of gay rights. The role played by Cristina Fernández de Kirchner, particularly in her opposition to the Catholic Church's homophobic attacks on pro-same-sex marriage efforts, proved influential especially in the time leading up to the legislative debates regarding the law. Furthermore, the legacy of each event or trend is also examined to better understand how each enabled the ultimate success of the sexual minorities' rights movement analyzed in Chapter IV: From *Oculto* to *Orguloso*, The Movement.

It is important to note that there are many more moments in Argentina's expansive and complicated history that have been influential and important. Perhaps most notable among recent events excluded from this project is the economic crisis of 2001. Indeed, the complete history of Argentina cannot be summed up in a few pages. Economic crisis, for example, has come and gone in many nations, all of which have ongoing struggles for nondiscrimination of sexual minorities. It certainly has its influence; indeed, the Kirchners coming to power and the human rights agenda were both affected by the economic crisis of 2001 and the resulting political efforts. Instead of focusing on the crisis, this study looks at the Kirchners, who carried Argentina out of it. The events presented here have the legacies that are particular to the Argentine case in their influence on nondiscrimination efforts. Enhanced by social and cultural context, these pathways were utilized by the movement to build a collective identity, articulate demands within and against existing frameworks, and ultimately gain equal access to marriage.

Section 1: 1853 Constitution: “The private actions of men”

Before homosexuality can be legitimized via legal recognition of homosexual relationships, as indicated by Douglass Sanders, first there must be decriminalization of same-sex relationships and practices, then nondiscrimination.⁶⁶ In the case of Argentina, sexual minorities already had a particular legal advantage: homosexuality was not criminalized. Chapter 1, Section 19 of the Argentine Constitution of 1853 states: “The private actions of men which in no way offend public order or morality, nor injure a third party, are only reserved to God and are exempted from the authority of judges. No inhabitant of the Nation shall be obliged to perform what the law does not demand nor deprived of what it does not prohibit.”⁶⁷ Though the constitution has undergone several changes, this statement remains.

This foundation ensured that homosexuality was not illegal, though same-sex relationships would not be socially accepted for many years to come, and remain a controversial issue to some degree. Indeed, sexual minorities suffered and continue to suffer persecution. Nonetheless, this article of the Constitution protected the homosociality often practiced by men as a component of the *machismo* identity, which is further explored in Chapter III, Section 2: *Machismo*. Granted, the link between *machismo* and homosociality (distinguished from homosexuality) or homosexuality is contestable; “[m]en having sex with other men in cultures where marriage is primarily for the social object of procreation and family stability does not engender ‘gay’ identity but a tolerated activity.”⁶⁸ Nonetheless, the connection can be made. This baseline non-criminalization of homosexual practices, however said practices were initially

⁶⁶ Sanders, Douglas. “Getting Lesbian and Gay Issues on the International Human Rights Agenda.” *Human Rights Quarterly*. Vol. 18, No. 1. The Johns Hopkins University Press. February 1996. pp. 72. 12 April 2010. <<http://www.jstor.org/stable/762637>>.

⁶⁷ Constitution of the Argentine Nation. 31 January 2011. “About Argentina.” History of the Formation of the Argentine State. 31 January 2011. <http://www.argentina.gov.ar/argentina/portal/documentos/constitucion_ingles.pdf>.

⁶⁸ Tahmindjos, Phillip. pp. 231.

understood, served as a baseline to eventual tolerance of homosexuality. However arduous the path toward nondiscrimination in Argentina has been, at no point were homosexuals subject to laws that criminalized homosexuality and punished it with imprisonment or even death (though the argument might be made that the military Junta targeted homosexuals). This foundation put Argentine sexual minorities ahead in their fight for nondiscrimination and equality. In a world where the governments of some countries still sanction the murder of homosexuals, Argentina has already arrived at the legalization of same-sex marriage.

Section 2: “Out of the Closet and into the Street”: The Gay Rights Movement Arrives in Argentina

With this non-criminalization of homosexuality and homosociality as a tolerant base, gay rights had a head start in Argentina. The country and its citizens already accepted homosexual practices to a certain degree. Though discrimination and homophobia existed and still exist, the complexities of gender and sexuality in Argentina, further explored in Chapter III, allowed for more variation and interpretation than other cultures and States. Therefore, when the gay rights movement began in the 1960s, the theory, practice, and strategy of organization and protest to attain rights found a less discriminatory and phobic environment in Argentina than many other efforts around the world.

Though there have been several gay and lesbian movements throughout history, beginning of the modern gay rights movement in the United States is often considered to be June 28, 1969, the day of the Stonewall Riots. At a gay bar in New York City, tired of police brutality and blatant abuse and discrimination, the patrons of Stonewall fought back. The subsequent ripple effect inspired gay rights efforts around the world. Just five months after Stonewall,

Grupo Nuestro Mundo (Our World Group), the first gay political organization in Latin America was formed in Argentina, beginning the local sexual minorities' rights movement there.⁶⁹ The Argentine movement is detailed in Part II: From *Oculto* (Hidden) to *Orgullosa* (Proud), The Movement.

This movement carried sexual minorities from that late 1960s forward, through triumph and devastation. Even when their efforts were shut down, they recuperated. The international gay rights movement informed the local movement in Argentina, and vice versa. Today, as the tenth nation in the world to legalize same-sex marriage, Argentina stands as a model to those States who have not yet realized that goal. That is not to say that the legalization of same-sex marriage is the pinnacle nor the end of the struggle for the rights of sexual minorities; indeed, it was not the primary goal of many activists in Argentina despite the “mainstream” gay presence that pushed the legislation. Additionally, it is important to note that the goals of movements develop over time. Indeed, it is unlikely that the early activists in the 1950s and '60s in Argentina would have imagined legalizing same-sex marriage or even articulating it as a goal of their efforts. Although it was not the sole source of power and accomplishment in the process which brought Argentina to the constitutional amendment which allows same-sex marriage, this successful social movement was instrumental.

While the demands of sexual minorities expressed through activism vary, organizations such as La Federación Argentina LGBT (FALGBT), the Argentine LGBT Federation, were particularly vocal and effective. There is criticism, mostly among sexual minorities, that same-sex marriage is simply conformation with the hegemonic heterosexual model that reinforced patriarchy and its oppression; the same question has been raised in Argentina. The question of whether or not marriage is truly the answer to discrimination against sexual minorities will be

⁶⁹ Brown, Stephen. pp. 120.

further explored in Chapter VI. Nonetheless, activists and organizations such as the FALGBT helped ultimately ensure legal legitimization and recognition of same-sex couples along with the dignity and rights of those individuals in those relationships through the legalization of same-sex marriage.

Section 3: *Nunca Más*: Military Dictatorship and *Los Desaparecidos*, 1976-1983

Shortly after the local sexual minorities' rights movement began to gain speed, it was quickly shut down by a military dictatorship known by names including *la Guerra Sucia*, the Dirty War, and *El Proceso*, the Process. Following an economic crisis in 1975 and tumultuous aftermath, on March 24, 1976, military commanders Junta, Jorge Rafaela Videla, Emilio Eduardo Massera, and Orlando Ramón Agosti came into power through a coup. The unrest that preceded the military coup provided the Junta an opportunity, as a promise to “reestablish order and ensure the state’s monopoly on violence.”⁷⁰ Videla was named president. The Junta at once implemented their *Proceso de Reorganización Nacional*, or Process of National Reorganization, which went far beyond violence control; they sought to literally eliminate the “source” of the “problem.” Thus began the systematic kidnapping, sequestering, torture, murder, and disappearance of thousands, including sexual minorities.⁷¹ The victims became known as *los desaparecidos*, the disappeared.

The execution of this process was seen as a moral one. In fact, “the speeches of Argentine junta members, in defending repressive measures, focus[ed] almost exclusively on ethical issues: the need for a stronger sense of moral community, of cultural coherence and

⁷⁰ Romero, Luis Alberto. *A History of Argentina in the Twentieth Century*. pp. 215.

⁷¹ Brown, Stephen. pp. 121.

national integrity.”⁷² The reorganization of society was considered to be the amputation of a disease, and was therefore “acceptable”: “Navy officers returning from dropping victims into the sea received comfort from chaplains who would cite parables from the Bible about separating the wheat from the chaff.”⁷³ According to one police officer’s account of the advice offered to him by a priest: “He told me that what we were doing was necessary for the good of our country . . . that God knew that what was being done was for the good of the country.”⁷⁴ The Church’s role in the dictatorship will be described in Chapter III, Section 5: The Church and How Argentina Overcame Religious Opposition to Same-Sex Marriage.

The military attempted to erase any and all traces of the disappeared. Not only did they do away with their bodies, hiding physical evidence, but they also deleted official government information regarding their birth, whereabouts, and existence. When people went to the police to report a husband, sister, or son missing, the police informed them they had no record of such a person: “Are you *sure* you have a brother? There is no record under that name.” Thus began the psychological warfare at the hands of the Junta and their puppets against the people of Argentina.

With the oppression of the dictatorship came choking limitations to expression and interpretation of any kind. The disappearance of sexual minorities sent a clear message that their sexual variations were not acceptable in this new and “reorganized” society. This narrowed view on society, sexuality, and gender not only oppressed efforts by sexual minorities to attain rights, but also to exist in any way that would cause the military any reason to make them disappear. Many sexual minorities made themselves disappear before the government had the opportunity

⁷² Osiel, Mark J. “Constructing Subversion in Argentina’s Dirty War.” *Representations*, Vol. 75, No. 1. University of California Press, Summer 2001. pp. 119-158. 11 April 2011. <<http://www.jstor.org/stable/10.1525/rep.2001.75.1.119>>. pp. 129.

⁷³ *Ibid.*, pp. 130.

⁷⁴ *Ibid.*

to do so, fleeing to other nations for safe haven. Those who remained in Argentina were silenced and closeted for fear of their lives.⁷⁵

The *desaparecidos* were taken to one of hundreds of clandestine centers, (many of which, such as gas stations, still stand as working businesses today), where they were detained and tortured until the day they were “disappeared.” One method was to drug the victim then drop them, unconscious, from a helicopter into the river. One of these centers, Escuela [Superior] de Mecánica de la Armada (ESMA), the army’s mechanical school, is open to the public today as a memory center. Néstor Kirchner approved the conversion of the ESMA, the above mentioned clandestine center, into a memory center much like many of the concentration camps of the Holocaust. Though the decision was a controversial one, Hebe de Bonafini, head of the Asociación Madres de Plaza de Mayo, or the Mothers of the Plaza de Mayo, approved it.

I had the opportunity to visit while I was in Argentina. As one walks towards ESMA, should one need any directions, that controversy remains very much alive, as it is hardly guaranteed that an Argentina passerby will offer any assistance; many prefer to look the other way. On “Liberator” street, behind the black fence upon which life-size silhouettes of bodies hang, lawns of green grass span in the open spaces between buildings. Walking into the building where prisoners were kept, the haunting air that hangs in the halls is the only indication of the horrors that occurred there. It has not been covered up recently; the military altered construction to hide their practices from a human rights organization that visited during the dictatorship. Going into the basement, all that is left is the four walls of the room that was once filled with tiny cubicles where torture was practiced. There were also areas where documents were forged and false propaganda was created to deflect blame for the horrors occurring.

⁷⁵ Brown, Stephen. pp. 121.

Photographs, museum plaques, and memories reconstruct the history. As we stood in this room, our guide took a moment to explain more about the military and *los desaparecidos*. Explaining how those who knew something was occurring turned a blind eye, the answer was simple: “You must have done something to be put in. And if you were released alive, you must have done something to get out.” That is to say, that which is often looked upon in hindsight as denial from onlookers cannot be reduced so simply. Most “criminals” are arrested by the police, taken away, and detained. Therefore, from an outside perspective that could not know the innocence or guilt of the victims, the victim must have committed some crime. Furthermore, “criminals” may get off of charges by giving up information or doing some favor on the inside. Therefore, if someone was let go, to an outsider, it looked like the person had done something to earn their freedom. The *desaparecidos* suffered horrors literally right next door to average Argentine citizens who could not have known any better until it was too late.

Prisoners were kept in tiny compartments, often with hoods over their heads, denied adequate food and limited trips to the bathrooms, which stand today exactly as they were then. Upstairs, there’s the room where pregnant women were kept until they gave birth, at which point their children were taken away from them. There was also a printing press of sorts, compliment to the downstairs center, where prisoners were forced to forge documents for the Junta. At the end of the tour, visitors are taken to a room with pictures of the disappeared, the Junta, books, information, and a giant guestbook, signed by visitors from around the world as well as grateful family members of victims, thankful for the remembering.

The Comisión Nacional sobre la Desaparición de Personas, National Commission of Disappeared Persons, or CONADEP, created in 1984, investigated and reported on the disappearances. The systematic abductions and disappearances “occurred in massive numbers

between 1976 and 1978, [...] and then were drastically reduced. It was a true genocide.”⁷⁶ In a publication called *Nunca más*, (hence the common use of the phrase in Argentina ever since to refer to *los desaparecidos* and the promise of never again), their official report, CONADEP documented 9,000 cases, but noted the possibility if not probability for more; the more commonly accepted number of disappeared is 30,000. Among those targeted were Ejército Revolucionario del Pueblo, the People’s Revolutionary Army, ERP, and the Montoneros, a Peronist guerilla group.⁷⁷ An unknown number of sexual minorities were also victims, and many fled the country for safety.⁷⁸ The entire population was shut down: “Terror ran through all of society. With outlets shut off for individuals to join broader collectivities, everyone became isolated and defenseless against a terrorist state; and in a paralyzed society incapable of reacting there was established [...] a ‘culture of fear.’”⁷⁹ Furthermore, the population internalized the state’s mentality, “patrolled itself and became full on informants, and through a collection of practices—from the family to the manner of dressing to its beliefs—revealed just how deeply rooted in it was the authoritarianism that the state discourse legitimized.”⁸⁰ However, by the early 1980s, attitudes were already shifting.

Two crucial events were central to this change in opinion: first, the public action of *Las Madres de la Plaza de Mayo*, the Mothers of the Plaza de Mayo, the mothers of the disappeared, and second, the Falklands war in 1982. In the late 1970s, the *Madres* began to march in the plaza in front of *La Casa Rosada*, the Pink House, at the heart of Buenos Aires. The instrumental role played by these mothers is examined in Part III, Section 4: Out of the House and into the Street: Redefining the Public and Private Spheres and the Divide Between Them.

⁷⁶ Romero, Luis Alberto. pp. 217.

⁷⁷ Ibid., pp. 218-219.

⁷⁸ Brown, Stephen. pp. 121.

⁷⁹ Romero, Luis Alberto. pp. 220.

⁸⁰ Ibid.

In 1982, Argentina invaded and occupied the Falkland Islands. The United States, allied with Great Britain, could not continue to offer any under the table support for the military dictatorship in Argentina, which it had up until that point. Britain fought back and Argentina suffered a disastrous loss. It quickly became evident to the public that the war, which had resulted in the death of thousands of young Argentine soldiers, was completely unnecessary. This was perhaps the military's greatest strategic mistake, and its rule fell shortly thereafter.

At the same time, the mothers were still marching and demanding a break from the silence for truth and justice. After the Falklands crisis, society began to listen to the mothers. More and more people began to question and challenge the military, making demands for answers. For example, in 1981, the Church published "The Catholic Church and the National Community," which "reaffirmed republican principles and indicated the Church's preference for democracy, its distancing itself from the military regime, and its sympathies for society's rising demands. The most notable of these demands was for human rights."⁸¹ The *Madres* demanded answers from the silence:

"Mothers and wives of the disappeared. WE ONLY ASK FOR THE TRUTH. [...] Mr. President, Military Junta, Heads of the Armed Forces, Supreme Court of Justice, Ecclesiastic Authorities... The TRUTH that we ask for is to know if our DISAPPEARED ARE ALIVE OR DEAD AND WHERE THEY ARE... For them we ask for a legal process and let their guilt or innocence be proven and, according, [that they be] tried or liberated."⁸²

The mothers, "themselves victims of the repression [...] became the point of reference for an increasingly broad movement and occupied the center of public debate, encouraged from abroad by the foreign press, governments, and human rights organizations."⁸³ These mothers, marching in circles in front of the Casa Rosada, had managed to reintroduce public protest, which had been shut down by the military, in their own way, in a new way.

⁸¹ Ibid., pp. 238.

⁸² deMoor, Magda Castellví. "Madres de la Plaza de Mayo: por siempre Antígonas." *Las Desobedientes: Mujeres de Nuestra América*. Santafé de Bogotá: Panamericana Editorial Ltda., 1997. pp. 561. Translation is my own.

⁸³ Romero, Luis Alberto. pp. 239.

There was an innovative shift in Argentine society that transcended politics; human rights organizations “not only placed the question of the ‘disappeared’ at the center stage of public debate, [...] but they also invested political activities with an ethical dimension, a sense of commitment, and a need to find basic points of agreement in society and beyond party affiliations.”⁸⁴ In combination with the aftermath of the Falklands crisis, the people wanted a say; they demanded democracy. When, at the end of 1982, the public rejected a proposal submitted by the military and marched for democracy, the government set an election date for late 1983. On December 10, 1983, Raúl Alfonsín became president.

Following the military dictatorship, Argentina tried its own war criminals for the sake of truth, justice, and memory. At first, President “Alfonsín’s administration initiated a policy of prosecuting the high commands and other officers involved in human rights violations.”⁸⁵ Soon thereafter, however, he passed two laws that halted such trials: *Punto Final*, or Full Stop, in 1986⁸⁶ and *Obediencia Debida*, or Due Obedience, in 1987. The *Punto Final* law set an end date for all trials, after which no more trials could be held. The law of *Obediencia Debida* protected those who were operating under the orders of others such that they could not be held responsible for those actions. Carlos Menem then became president July 8, 1989. Menem wanted to let the past be the past and keep Argentina moving forward away from it. To symbolize this shift, he pardoned and released the Junta leaders. This act was taken as an affront to truth and justice in regard to *los desaparecidos* and their memory. Despite this dark time for the state of human rights in terms of the promise of *nunca más*, including truth and justice, a

⁸⁴ Ibid.

⁸⁵ Roniger, Luis and Mario Sznajder. *The Legacy of Human Rights Violations in the Southern Cone: Argentina, Chile, and Uruguay*. New York: Oxford University Press, 1999. pp. 137.

⁸⁶ Also in 1986, the *Madres* split into two factions, the Asociación (Association) Madres de Plaza de Mayo, of which Hebe de Bonafini is president, and the Línea Fundadora (Foundational Line) de Madres de Plaza de Mayo.

decade after the return of democracy, recognition of human rights reached the level of national legislation just over a decade after the end of the dictatorship in 1994.

When democracy returned, so did the presence of sexual minorities. Their efforts were quickly revitalized with a new, novel, and strong foundation: human rights. The gay rights organizations founded at the time set a precedent for all that would follow, utilizing human rights in their demands. Establishing this understanding of “gay rights” as human rights, as equal access to the rights all humans deserve, sexual minorities established a place for themselves on the *nunca más* platform, fighting to ensure that their rights would too be protected.

Today, Argentina is still trying the Junta for their crimes, and the search for the bodies of the disappeared continues with gradual success. Many of the children of abducted women, adopted and raised by Junta members and their friends as their own children, have since learned the truth, largely due to their grandmothers’ searching for them. Some families still await news; some, even though they have gotten news, still fight for human rights ensuring that such a tragedy will happen *nunca más*, never again.

Section 4: Nationalizing Human Rights

How did “human rights” become the solution for the consequences of the military dictatorship and the prevention of another? How were human rights incorporated into Argentine politics and society such that groups like sexual minorities could utilize the framework to realize their demands? During the dictatorship, groups like the Madres de la Plaza de Mayo articulated their demands in terms of human rights, arguing that their children’s human rights had been violated. With the return of democracy, state organizations and officials began framing the problems and solutions in terms of human rights as well.

In the aftermath of the dictatorship, “human rights violations tainted the [dictatorship] and became an important tool for those oppositionary political and social forces that were striving to redemocratize [...]. With the return of democracy, the legacy of human-rights violations was openly addressed by all sorts of social and institutional actors in the uncensored public spheres.”⁸⁷ Just over a decade later, in 1994, Argentina established a Constitutional hierarchy of the International Human Rights Treaties, including the Universal Declaration of Human Rights, the International Convention on Civil and Political Rights, the International Convention on Economic, Social, and Cultural Rights, and the Convention on the Elimination of all Forms of Discrimination against Women.⁸⁸ According to Chapter IV, Section 75, subsection 22 of the Argentine Constitution: “Treaties and concordats have a higher hierarchy than laws,”⁸⁹ and “are to be understood as complementing the rights and guarantees recognized herein.”⁹⁰ Therefore, human rights became a Constitutional matter in Argentina, and human rights violations thus unconstitutional.

The dictatorship and how it was addressed by the people and the State “set important precedents for other international and regional human rights action, and shows the intricate interactions of groups and individuals within the network and the repercussions of these interactions.”⁹¹ The massive human tragedy of the dictatorship placed it within the existing international framework of “human rights.” The legacy of the dictatorship produced three dimensions central to addressing the violations: “first, the problem of the victims and the personal and institutional acts of repression; second, the effort to prevent massive human- and

⁸⁷ Roniger, Luis and Mario Sznajder. pp. 136.

⁸⁸ *Constitución de la Nación Argentina: Tratados internacionales con jerarquía constitucional*. Buenos Aires: Kapelusz, 2009. pp. 7.

⁸⁹ *Constitution of the Argentine Nation*.

⁹⁰ *Ibid.*

⁹¹ Keck, Margaret E. and Kathryn Sikkink. pp. 109.

civil-rights violations [...] in the future; and third, the incorporation of the repressive period into the collective memory and identity of [society].”⁹² The kidnapping, torture, and disappearances that occurred in Argentina during 1976-1983 were considered “human rights violations.” Thus, the response became to ensure the protection of human rights.

The perpetrators and proponents of the human rights violations of the dictatorship became the enemies of human rights in Argentina. These included the military and the Catholic Church. Those who demanded a promise of *nunca más* and the freedoms and protections inherently afforded to every human became the heroes and supporters of the new framework. These included the Madres de la Plaza de Mayo, the individuals and groups victimized by the dictatorship, and many members of the political Left. Thus, “human rights” became part of the platform of many Leftist politicians.

President Raúl Alfonsín, the first president in the democracy after the dictatorship, was a member of the Unión Cívica Radical (UCR), or Radical Civic Union party, which is a Leftist party. The next president, Carlos Menem, was a member of the Partido Justicialista (PJ), or Justicialist Party, a populist party founded by Juan and Evita Perón. When Menem issued neoliberal Rightist policies, however, the platform of the party members supporting him shifted. The next president, Fernando de la Rúa, was a member a faction of the UCR which opposed Menem’s neoliberalism. The next two presidents, Adolfo Rodríguez Saá and Eduardo Duhalde, were members of the PJ. The Néstor Kirchner was and Cristina Fernández de Kirchner is a part of the Leftist Frente para la Victoria, or Front for Victory, faction of the PJ. This overall domination of largely left-wing politics is notable, especially given the weight placed on human rights in Argentine politics since the dictatorship. Granted, each president has had their own interpretation of human rights and how to best protect them.

⁹² Roniger, Luis and Mario Sznajder. pp. 136.

The Kirchners, who will be more fully examined in the next section, are established on the left side of the political spectrum, perhaps making their staunch support for human rights, even those of gay people, less surprising. Their politicization of human rights has led their opponents to negatively associate “human rights” with Leftist politics, despite the fact that, in theory, human rights should be politically neutral. It is fair to say that human rights and the political Left have become inextricably linked in Argentina. The Left was reborn with the human rights agenda, resulting in a separation from any past violence and an alliance with groups like the Madres de la Plaza de Mayo.

Given that members of the Left tend to be a stronger supporters of gay rights, this connection between the Left and human rights is important, especially due to the link between human rights and the demands of sexual minorities for nondiscrimination and equality. However, Leftist support for civil, human, and/or gay rights is not isolated to Argentina. Furthermore, “do the values and processes of liberal democracies engender legal norms more sympathetic to the needs of GLBT communities? Not necessarily.”⁹³ While a potential component of the ultimate success of sexual minorities, left-wing politics have not guaranteed victories elsewhere. This study seeks to determine the key elements of success in Argentina, and though Leftist politics cannot be taken for granted, they are also not one of the main reasons that Argentina legalized same-sex marriage.

Section 5: The Kirchners

The Kirchner era began in 2003 and continues today. Under their leadership, Argentina was brought out of economic collapse into recovery and development, human rights were central to policy, the laws ending trials of the Junta were determined unconstitutional and the trials

⁹³ Tahmindjos, Phillip. pp. 229.

began anew, earning the trust of the Madres de la Plaza de Mayo, and national support for gay rights grew to 70% approval of same-sex marriage. The dynamic duo championed human rights, so much so that their political opponents even stiffen at the phrase “derechos humanos” (“human rights”), as they associate it so strongly with the Kirchners (it is understood as the politics of the *Madres*, as opposed to Carlos Menem, understood as the heir of the Junta, and United States imperialism). Following a major economic crisis in 2001, (due to extraordinary national debt that began to build under the Junta and was compounded by Carlos Menem), along with human rights, the second pillar of Néstor Kirchner’s presidency, beginning May 25, 2003, was economic recovery. Kirchner broke the 1:1 equivalency of the Argentine peso to the United States dollar and rescheduled payback timelines on loans.

The two pillars were an appropriate and effective pair, as “[t]he level of human rights violations is directly related to the economic strategy adopted by governments.”⁹⁴ In times of economic crisis, human rights often suffer due both to a lack of funds and other resources and the State’s sole focus on trying to save the economy, which is often out of human hands once it has reached the crisis point. Nonetheless, Kirchner “made human rights one of his central policies, something he didn’t have to do,” and although “[h]e paid a political price for it, [...] he insisted on it.”⁹⁵ Given the environment in which he took office, “following that formidable disaster of 2001 and from 2003 a slow reconstruction process began which was aimed at paying off that major social debt which had led to unemployment in 2003 reaching 23 percent.”⁹⁶ By the time his wife, Cristina Fernández de Kirchner, assumed the presidency on December 10, 2007,

⁹⁴ Petras, James, and Henry Veltmeyer. *Social Movements and State Power*. Ann Arbor: Pluto Press, 2005. pp. 100.

⁹⁵ Castillo, Mariano. “Kirchner placed Argentina on an independent path, observers say.” 27 October 2010. CNN. 18 February 2011. <http://articles.cnn.com/2010-10-27/world/argentina.kirchner.impact_1_argentina-nestor-kirchner-president-carlos-menem?_s=PM:WORLD>.

⁹⁶ Haass, Richard N. (Presider). “A Conversation with Cristina Fernández de Kirchner.” Transcript. 22 September 2008. Council on Foreign Relations. Federal News Service, Inc. 18 February 2011. <<http://www.cfr.org/argentina/conversation-cristina-fernandez-de-kirchner/p17314>>.

substantial growth had occurred; “during the first five years, actually, in 2007, we had the largest growth figures in Argentina’s last hundred years,” Cristina Fernández de Kirchner said in 2008.⁹⁷ Significant steps had also been taken in regard to the country’s record of and stance on human rights.

Under Néstor Kirchner, the exemption enjoyed by the Junta thanks to the Final Point Law and the Law of Due Obedience ended. Kirchner did not wish to keep Argentina’s skeletons hidden away in the closet, but to offer the truth and justice deserved. Although “until the administration of President Nestor Kirchner, impunity had prevailed in Argentina,” he declared the laws unconstitutional.⁹⁸ With the overturn of these two laws, trials of the Junta began again and continue to this day, holding human rights violators responsible and delivering justice.

This set the tone for the Kirchner legacy. *Las Madres* finally had a president in office that heard their cries, ended the silence, and sought truth and justice. Many of them stopped marching in *La Plaza de Mayo*, turning their efforts entirely to human rights work. In 2008, President Cristina Fernández de Kirchner said in an interview that “the policy on absolute respect for human rights is one of the basic pillars of our policy and is actually a state policy.”⁹⁹ She spoke out about the *Proceso*, openly acknowledging the *desaparecidos* and their children who have yet to be found, though 100 children have been found and work continues to find the rest. President Cristina Fernández de Kirchner said, “the fact is that Argentina’s commitment to respect for human rights is – it’s unlimited and unfaltering. And I think we have made quite a lot of progress.”¹⁰⁰ Indeed, Louise Arbour, former Human Rights Commissioner of the United

⁹⁷ Ibid.

⁹⁸ Ibid.

⁹⁹ Ibid.

¹⁰⁰ Ibid.

Nations, acknowledged that Argentina played a “key role” in “the field of human rights by leading to the adoption and creation of instruments such as the Right to the Truth or the Treaty on the Enforced Disappearance of Persons, which at least are instruments to fight for human rights in a world in which human rights are violated on a daily basis.”¹⁰¹ This respect and work for human rights pervades society at its many levels, from the top down and from the bottom up.

The reason sexual minorities’ efforts have such an effective base in human rights is because all Argentines have a solid understanding of what human rights are and why they are important. It is taught that human rights are important to everyone, everywhere. While the particular issues of sexual minorities are not so easily understood or widely known to the general public and government officials, situating their efforts as human rights efforts establishes a familiar platform in Argentina. The importance of human rights is learned at an early age such that Argentines understand their rights. Human rights are further worked into the Argentine education system through university.¹⁰² According to the Federal Law of Education:

“The school has the responsibility to instill[] the student with ‘democratic values’ such as ‘the pursuit of well being, the search for truth, life, the dignity of human beings, love, peace, harmony, solidarity, friendship, mutual understanding, justice, freedom, tolerance, honesty, intercultural and international understanding.”¹⁰³

Explaining why it is “so important to reaffirm the concept of international law and of democratic civilization,” President Cristina Fernández de Kirchner said: “Because that is right at the heart of the fight against terrorism. If we use similar instruments to those used by terrorism, [...] we may run the risk of might, of sheer force not being enough in this fight that is profoundly cultural and political, a fight which we must wage from the democratic world.”¹⁰⁴ The legacy of human

¹⁰¹ Ibid.

¹⁰² Roniger, Luis and Mario Sznajder. pp. 152.

¹⁰³ Ibid., pp. 154.

¹⁰⁴ Haass, Richard N. (Presider).

rights has continued through Cristina's presidency, ensuring justice for the violations during the military dictatorship, as well as a dedication to the equality of all.

Néstor Kirchner and President Cristina Fernández de Kirchner were strong supporters of the same-sex marriage bill. They maintained their stance despite potential cost to their political careers: "The Kirchners risk[ed] dividing their own supporters with the gay marriage bill, which ha[d] more support in Buenos Aires than in rural provinces. Mr. Kirchner could [have] w[o]n over voters in Buenos Aires, where a majority of residents dislike[d] him, while losing votes in the provinces, political analysts said."¹⁰⁵ President Cristina Fernández de Kirchner, a strong advocate for equality, stood up and spoke out for gay rights against opposition including the Catholic Church. In fact, the bill widened the divide between the President, who supported it, and the Catholic Church, who opposed it. President Cristina Fernández de Kirchner prioritized the rights of the minority, placing it on the agenda as a matter of Argentine democracy and its recognition of rights.

The establishment of same-sex marriage as an issue within the larger human rights context (Sedgwick's universalizing view), as opposed to the smaller gay rights context (the minoritizing view), proved effective. Before the bill was passed, polls showed that "nearly 70 percent of Argentines support[ed] giving gay people the same marital rights as heterosexuals."¹⁰⁶ The bill went further than same-sex marriage, granting inheritance and adoption rights, making same-sex couples equal to different-sex couples under the law. Providing the same rights with the same names ensured this equality, unlike civil unions: "Civil union 'doesn't respect equality,' said José María Di Bello, deputy director at the Red Cross in Buenos Aires. 'We want the same

¹⁰⁵ Barrionuevo, Alexei.

¹⁰⁶ Ibid.

rights with the same names, not to be considered second-class citizens.”¹⁰⁷ President Cristina Fernández de Kirchner believed that providing these rights was exactly what Argentina, and all societies, should strive for. When the bill was passed into law, the President said: “These things have to do with aspirations toward equality that every society must have, and are things that cannot divide us. They are things that, to the contrary, must unite us. Today, we are a little more egalitarian than we were last week.”¹⁰⁸ This equality, according to President Cristina Fernández de Kirchner, was defining of Argentina:

“We are talking about whether we are going to be a society which recognizes the rights of minorities. This is the axis. Or if we are going to require that when someone signs some official paperwork, instead of writing an ID, they should write ‘gay’ or ‘lesbian’ so some public official can say ‘Yes, I will see you’, ‘I won’t see you’, ‘You have the right to in vitro fertilization’, ‘No you don’t have the rights.’”¹⁰⁹

The principles and values behind the bill, behind equality, were not novel. The President stated: “I sincerely believe what’s being presented before the current norm is something that the community already has.”¹¹⁰ Furthermore, she believes that such equality is necessary to the preservation of democracy: “I believe it’s fair – it’s fair – to recognize this right for the minorities. And I believe it would be a terrible distortion of democracy if the majorities – the actions of those majorities – denied rights to those minorities.”¹¹¹ President Cristina Fernández de Kirchner signed the bill into law, grinning, amidst loud cheers.

Section 6: Conclusion

These five events, the constitutional non-criminalization of homosexuality, importation of the gay rights’ movement into Argentina, the military dictatorship, nationalization of human

¹⁰⁷ Ibid.

¹⁰⁸ “Gay marriage legal in Argentina.” ReutersVideo. 22 July 2010. YouTube. 18 February 2010. <<http://www.youtube.com/watch?v=XsIfBqfzhkI>>.

¹⁰⁹ Blabbeando. “Argentina: President Cristina Fernández de Kirchner defends marriage equality bill.” 12 July 2010. YouTube. 18 February 2011. <<http://www.youtube.com/watch?v=ixVrmrQg9AM>>.

¹¹⁰ Ibid.

¹¹¹ Ibid.

rights as a standard and a framework, and the Kirchner presidencies, were important steps on the way to achieving national legalization of same-sex marriage. The success of efforts to achieve marriage equality depended on the pathway created by each event. The 1853 Constitution established the necessary base of tolerance. The importation of the theories and practices of the gay rights movement of the 1960s by Argentine sexual minorities provided the tools necessary to organize, make demands, act collectively, and achieve change. The 1976-1983 military dictatorship transformed the entire Argentine nation. The rebirth of democracy renewed the silenced efforts of sexual minorities and their movement began again in the context of human rights. The human rights framework provided a strong platform from which to demand nondiscrimination and equality as humans and citizens equally deserving of the same treatment, freedoms, and protections as everyone else. Finally, Néstor and Cristina Fernández de Kirchner came into power in the Argentine government. The two made human rights a central part of their policies, including minorities. Presidential support gave efforts to achieve marriage equality the final and necessary push to achieve legalization of same-sex marriage.

As will be explored in the next chapter, these events did not happen in isolation, nor was change achieved on its own through the historical pathways created. Argentine society and culture shaped and were shaped by these events. Argentine identity was transformed overtime through each of these events. The incumbent dominant sex/gender *macho* identity and *machismo* system, although an adversary of sexual minorities, also provided opportunities to be challenged and reinterpreted. For example, the identity and system includes an element of homosociality, which sufficiently shows the flexibility of constructed norms such as heteronormativity. Such weaknesses inherent in socially and culturally constructed systems were also challenged by the Madres de la Plaza de Mayo, who came out of their homes into the streets to protest, redefining

barriers between private and public while challenging the traditional role of a woman in Argentina. The historical pathways examined in this chapter created the opportunities for such actions. In addition to opening a path for the *Madres*, the aftermath of military dictatorship also delegitimized and weakened the Catholic Church, perhaps the greatest enemy of marriage equality, for its role in the *Proceso*. By the time same-sex marriage was up for debate at the national level, it was a question not only of the rights of sexual minorities, but of Argentine identity, of whether or not Argentina was the type of State that would allow its majorities to oppress its minorities.

Chapter III: “It Takes One Man and One Woman to Tango,”

Gender and Sexuality in Argentine Culture and Society

This chapter explores Argentine cultural and societal representations, understandings of, and associations with masculinity, femininity, and heteronormativity, the public and private spheres, and confrontation with the Catholic Church. Furthermore, it investigates how the gender binary opens itself to possibilities that do not conform to such a static division, establishing how Argentine culture and society fostered the presence and growing acceptance of those (once) considered “others,” including the outspoken Madres de la Plaza de Mayo and sexual minorities. Additionally, it seeks to break down the stereotype by showing how and why the Argentine context is hospitable to sexual minorities’ claims. Thus, this section seeks to discover how Argentine culture and society created and were created by possibilities to include the excluded, including sexual minorities.

Despite many stereotypes about the country and Latin American in general, Argentina fosters an environment which lends itself to the gradual social and political inclusion of sexual minorities. Argentina is perhaps most popular for those things one can learn about in a tourism guide book: the tango, Buenos Aires, premium beef raised by the *gauchos*, Patagonia, and Malbec wine. However, the complete history, culture, and society that have shaped Argentina are lesser known to the world at large; for example, its groundbreaking legislation (such as the ongoing internal trials of the perpetrators of the 1976-1983 military dictatorship) and prioritization of human rights. Beneath the surface of the “world-famous” aspects of the country lies a complex culture and society.

Gender and sexuality, which will be fully explored in Section 1 of this chapter, are essential parts of Argentine society and culture. That which shapes these identities is important

to understand not only in the context of sexual minorities, but of Argentina, its norms, discourses, and power structures. Thus, Section 2 closely examines identity formation, and the intersectionality of multiple identities. Section 3 describes the hegemonic sex/gender/sexuality system in Argentina, known as *machismo* and how it both challenges “otherness” yet, as a socially and culturally constructed system, is more open to interpretation than is often believed. Constructed norms can be challenged, transformed, and even deconstructed. The Madres de la Plaza de Mayo is one group who challenged norms both of the 1976-1983 military dictatorship and of the traditional role of women. Section 4 explores how their actions redefined the private and the public by breaking from the role of the woman of the house to protest in the street. Finally, Section 5 of this chapter will carefully review the delegitimization of the Catholic Church, a strong proponent of traditional gender roles and an enemy of same-sex marriage in Argentina. Delegitimized for its role in the military dictatorship, the Church, which could have been a strong force fighting in favor of heteronormative tradition, lacked support and was overcome by proponents of marriage equality. This careful examination of Argentine culture and society will further explain how national legalization of same-sex marriage became possible.

Section 1: Gender and Sexuality

The role of gender in Argentine culture and society is an essential part of this examination. Indeed, to paraphrase Joan Scott, one cannot understand history, or anything else, without gender. While “there is a common tendency to treat gender as synonymous with women’s topics,”¹¹² it is everyone’s topic, and it is a part of every topic that one can consider

¹¹² Fischman, Gustavo E. *Imagining Teachers, Rethinking Gender Dynamics in Teacher Education*. Oxford: Rowman & Littlefield Publishers, Inc., 2000. pp. 24.

because everyone has gender; therefore, gender plays a role in every interaction. Indeed, gender plays a role in everything.

Furthermore, sexuality and gender are inextricably interconnected; it is the performance of gender, such as through sexuality, that produces and reinforces the idea of what gender is.¹¹³ Writing of compulsory heterosexuality and lesbian existence, Adrienne Rich cites Alice Rossi: “Biologically men have only one innate orientation—a sexual one that draws them to women,—while women have two innate orientations, sexual toward men and reproductive toward their young.”¹¹⁴ This supposed innate or “natural” sexual orientation of men drawn to women and women drawn to men is articulated by Judith Butler in the so-called “heterosexual matrix.” The heterosexual matrix sets up a binary in which, on one side, male bodies indicate masculinity and desire female bodies, and on the other, female bodies indicate femininity and desire male bodies.

On one hand, sexual minorities break from this matrix by desiring bodies of the same sex/gender instead of the different or opposite sex/gender. By doing so, they can be said to become outsiders by not conforming to the norm. Eve Sedgwick calls this the “minoritizing view” of sexual minorities: this view claims that they are “outsiders” due to their break from the heterosexual matrix by doing their gender and/or sexuality “wrong.”¹¹⁵ This establishes sexual minorities as a minority. On the other hand, sexual minorities challenge the very existence of the matrix because they do not fit into it. To put it differently, everyone could potentially be a homosexual or another sexual minority; this is the “universalizing view.”¹¹⁶ For example, if a female-bodied feminine-identified woman desires other women, she breaks from the matrix not

¹¹³ Butler, Judith. *Gender Trouble*. New York: Routledge Classics, 2006.

¹¹⁴ Rich, Adrienne. “Compulsory Heterosexuality and Lesbian Existence.” *Signs*, Vol. 5, No. 4, Women: Sex and Sexuality. Chicago: The University of Chicago Press, Summer 1980. pp. 631. 6 December 2010. <http://anthropology.uwo.ca/stchristian/2202/2202_rich.pdf>.

¹¹⁵ Sedgwick, Eve K.

¹¹⁶ *Ibid.*

by her sex or gender, but by desire. If society accepts this woman and does not consider her a deviant, suddenly the matrix is compromised; if she is not “abnormal,” then that which is “normal” can no longer be determined in terms of the binary sex/gender system of the heterosexual matrix. The universalizing view indicates that it is everyone’s problem if the so-called “norm” excludes entire groups of people; the problem is not a minority excluded from the norm, but the incomplete and flawed norm itself.¹¹⁷

The additional role of women, to become mothers, is also an important part of the social construction of gender. Though not articulated by Butler as an explicit part of the heterosexual matrix, the role of woman as mother is strongly connected to the feminine gender and the female sex. As Luce Irigaray argues, “it is necessary to *become* a woman, a ‘normal’ one at that, whereas a man is a man from the outset;” that is, “a woman has to become a normal woman.”¹¹⁸ Sigmund Freud stipulates that in the beginning, both the boy and the girl are boys who have the phallus. Both desire the mother. The boy is permitted to desire his mother, though he may not have her; the father tells him he must wait but he will have his own woman (like his father has the boy’s mother) eventually. The girl, however, must recognize her lack. She does not and will never have the phallus; she must not desire her mother, and she will not be rewarded for patience as the boy will. Thus, the girl must suffer a crisis in order to become a “normal” “woman.” Furthermore, it is “normal” for a woman to identify as a woman and desire a man. It is “normal” for her to want to have children and be a mother; indeed, it is part of becoming a “normal” woman. It is “abnormal” for a woman to break with the heterosexual matrix; it is additionally “abnormal” for a woman to not want to have children or be a mother. This reinforces the universalizing versus minoritizing debate by adding another qualifier of “normal” versus

¹¹⁷ Ibid.

¹¹⁸ Irigaray, Luce. “Questions.” Chapter 7. *The Sex Which is Not One*. New York: Cornell University Press, 1985. pp. 134; 139.

“abnormal,” another way in which people do their gender “right” (women who want to be mothers) or they fail to do their gender “right,” thus doing it “wrong” (women who do not want to be mothers). That is, even a female-bodied feminine-identified woman who desires men may be considered “abnormal” if she does not want to be a mother to children. Sexual minorities challenge the heterosexual matrix by challenging “normal” sex/gender roles; similarly, women who do not wish to be mothers challenge their “femininity.” Either these women are an “abnormal” minority (minoritizing view), or they challenge the matrix as a whole by being alternatively “normal” women. Per the universalizing view, these “abnormalities” challenge the existence and constraints of the “norm” and what is “normal.”

Society maintains a constant mix of these two views. Nonetheless, as Butler notes, “we regularly punish those who fail to do their gender right.”¹¹⁹ “Doing” gender “right” includes behaving according to the heterosexual matrix. After all, according to Butler, it is this “doing” that makes gender: “Because there is neither an ‘essence’ that gender expresses or externalizes nor an objective ideal to which gender aspires, and because gender is not a fact, the various acts of gender create the idea of gender.”¹²⁰ Gender is, therefore, an act in the sense that “the action of gender requires a performance that is *repeated*. This repetition is at once a reenactment and reexperiencing a set of meanings already socially established; and it is the mundane and ritualized form of their legitimation.”¹²¹ To put it another way, Donnelly states: “Sexuality and sexual orientation are constructed sets of social roles.”¹²² These “social roles” are what Butler describes as repeated performances. Therefore, sexual minorities are simultaneously delegitimized by their “wrong” gender performance (desiring same bodies and/or genders and

¹¹⁹ Butler, Judith. pp. 190. Original emphasis.

¹²⁰ Ibid.

¹²¹ Ibid., pp. 191.

¹²² Donnelly, Jack. pp. 233.

therefore breaking with the heterosexual matrix) and delegitimizing of the very construction of gender. They are discriminated against because they challenge society's constructed roles by "doing" them "wrong."

Gender "is part of a complex system of norms and values that is extremely influential in shaping the relationships between individuals of the same or different sexes, between individuals and society, and between individuals and institutionalized structures of power."¹²³ While the norms and values of any given society or culture may seem to become quite "standardized" over time, they are nonetheless constructed and can thus be deconstructed. Systems' norms and values regarding gender are no exception; though certain identities are hegemonic, their power has been created and can be compromised or even destroyed. Indeed, "many [...] ideas were firmly institutionalized in many societies in the past. Being ideas, they were all subject to change, and [...] did change under relentless pressure over time."¹²⁴ Distinct as a social and historical category, gender "appears to be integrally involved in social organizations and in the construction of knowledges and identities in such a way that many of those differences seem to be natural and not social constructions."¹²⁵ Gender norms and values are not "natural" and must be understood as a set of constructions, of behaviors and performances that are repeated, as Butler would argue.

This understanding binds identity to "an open-ended set of practices that uncovers the way to alternative performances, even amidst the most restrictive spaces."¹²⁶ As Alan D. Schrift argues, "there are more than two 'gender possibilities produced within the repressive and

¹²³ Fischman, Gustavo E. pp. 23.

¹²⁴ Forsythe, David P. *Human Rights in International Relations*. Second Edition. Cambridge: Cambridge University Press, 2006. pp. 195.

¹²⁵ Fischman, Gustavo E. pp. 22.

¹²⁶ Ibid.

constraining practices of our compulsory heterosexuality culture.”¹²⁷ Sexual minorities explore these possibilities, exposing the possibilities within the traditional practices of Argentine culture and society, including the hegemonic *machismo* identity, which is explored in Section 3 of this chapter. “Non-traditional” women like the Madres de la Plaza de Mayo challenged the repressive constraints of the sex/gender system, redefining public and private by coming out of their homes to mourn and protest in the street, as is described in Section 5 of this chapter. Section 6 describes confrontation with and the delegitimization of the Catholic Church, a proponent of “traditional” norms and values and the most vocal opponent of same-sex marriage in Argentina. The success in each of these cases in overcoming the constructed norms and values played a significant role in the legalization of same-sex marriage by shaping Argentine society to largely support the initiative.

Section 2: Identity: Our Gender, Our Sexuality, Our Selves

To understand the role played by sexual minorities in the shaping of Argentine history, culture, society, and politics, and the role of these contexts in the shaping of sexual minorities, it is first important to understand identity itself. Gender and sexuality are important parts of each person’s identity. As previously explained, collective identity plays an important role in social movements, such as the sexual minorities’ rights movement in Argentina. However, the idea of “sexual minorities” as a collective identity is already complicated and problematic, as it is an umbrella term; thus, the collective is not centered around one sex/gender/sexuality identity, but several, bringing multiple identities together. As explained in Chapter I, the term is used in this study to describe those who challenge the norms of and/or are discriminated against for their sexual orientation, gender identity, and/or gender expression. Already within these terms alone

¹²⁷ Ibid.

there are the relations between: sex and gender; sex and sexual orientation; gender and sexual orientation; sex and gender expression; gender expression and sexual orientation; and so on, not to mention the next layer of complexities of identities and labels/categories such as gay, lesbian, bisexual, transgender, and transsexual.

According to Judith Butler, “sexual practice has the power to destabilize gender,” an idea that comes from Gayle Rubin’s “The Traffic in Women.”¹²⁸ The idea seeks “to establish that normative sexuality fortifies normative gender;” one is either a man or a woman according to this framework, to the extent that one functions as a man or a woman “within the dominant heterosexual frame and to call the frame into question is perhaps to lose something of one’s sense of place in gender.”¹²⁹ As Brown notes, “lesbians and gay men’s identity results from a historically constructed transgressive sexual desire that has become a basic component of personal definition.”¹³⁰ Here we have the uniting component of the varying identities present under the umbrella of “sexual minorities;” their desires, while diverse, are considered transgressive. While sex, gender, and sexuality may be personal, they are not always private; indeed, by organizing or uniting as sexual minorities, the personal is made public and political. It is under the categorization of “transgressive” identity that sexual minorities suffer and consequently organize as a collective to fight for equality.

It is the non-normative sexuality which fortifies non-normative gender, making sexual minorities threatening according to Sedgwick’s universalizing view and the idea of homophobic panic. These non-normative identities are discriminated against as the outsiders to the system per the alternative minoritizing view. Therefore, the concept of same-sex marriage is often perceived as a threat because its legalization is, in some ways, national acceptance of what Butler

¹²⁸ Butler, Judith. pp. xi.

¹²⁹ Ibid.

¹³⁰ Brown, Stephen. pp. 134.

calls “gender trouble,” or those who simply do not fit the hegemonic heterosexual frame. Indeed, Brown argues “that the emergence of lesbian and gay activism in Argentina rested on the earlier creation and diffusion (through national and international opportunity structures) of lesbian and gay identities.”¹³¹

Furthermore, there are particularities and intricacies of each individual’s identity due to their own identity formation. People learn and develop, changing, conforming, resisting, and “discovering” throughout their lives. This identity is not inherent and adapts: “Identity and sense of self are not innate features of individuals or communities, nor are they fully developed at once and then inscribed in stone;” instead, “they are in permanent tension, re-creating themselves through the hard work of social relations between people and their social, spatial, cultural, emotional, and physical contexts.”¹³² According to David O’Shea:

“For not only are subjectivities always only ever problematically occupied, but they have also to pass through the messy dynamics of desire, fantasy, and transgression. This unruly and unresolved ‘self’ (the gap between what we are supposed to be and what we have in actuality become) provides the space of individuation and agency.”¹³³

In the case of sexual minorities, that which “one is supposed to be” is often unattainable, as people are “supposed to” fit into the heterosexual matrix. Indeed, “[o]ne of the most fundamental processes of identity formation is that of achieving a sense of stability and security in our personal modes of being a male or female.”¹³⁴ As Butler notes, there is “terror and anxiety that some people suffer in ‘becoming gay,’ the fear of losing one’s place in gender or not knowing who one will be if one sleeps with someone of the ostensibly ‘same’ gender,” a “crisis

¹³¹ Ibid., pp. 133.

¹³² Fischman, Gustavo E. pp. 21.

¹³³ O’Shea, David. “Review: Sentimental Education: Schooling, Popular Culture and the Regulation of Liberty.” *Media Culture and Society*. 1993. pp. 501. As cited in: Fischman, Gustavo E. *Imagining Teachers, Rethinking Gender Dynamics in Teacher Education*. Oxford: Rowman & Littlefield Publishers, Inc., 2000. pp. 21.

¹³⁴ Fischman, Gustavo E. pp. 21.

in ontology experienced at the level of both sexuality and language.”¹³⁵ In Argentina, where the heterosexual matrix is the dominant formulation of gender and sexuality, the sense of stability and security that comes with conformity is threatened for sexual minorities because they do not fit into the matrix.

Sexual minorities must find their own strength and safety beyond the heterosexual matrix. This is done in varying ways, many of which include identifying with some elements of the heterosexual matrix. Furthermore, community among sexual minorities is an important factor in the formation of (collective) identity, safety and security, networking and organizing. In this way, sexual minorities who may consider themselves to have little in common may develop their own community by being “outsiders” together. Therefore, they become “insiders” of another system that accepts them, where they are safe and they are free to be their “true” selves.

Multiple Identities

While society, the law, and many other power dynamics and discourses may reduce sexual minorities to their sexual orientations, other identities such as class, race, and belief are part of the self each individual carries wherever they go. Furthermore, any relationship a person may have, be it romantic, professional, friendly, associational, circumstantial, and so on, is related to other relationships and identities. In this intersectionality, these identities constantly relate to one another: “complex sets of relationships (between class, gender, race, and ethnicity and between individuals and social entities) are conceptualized as the juggling challenges of difference and identity.”¹³⁶ As summed up by Eve Sedgwick in her first axiom: “People are

¹³⁵ Butler, Judith. pp. xi-xii.

¹³⁶ Fischman, Gustavo E. pp. 21.

different from each other.”¹³⁷ However, they can find common ground at intersections of identity, learning from and teaching one another.

Anzaldúa argues that “[c]olored homosexuals have more knowledge of other cultures; have always been at the forefront (although sometimes in the closet) of all liberation struggles in [the United States]; have suffered more injustices and have survived them despite all odds.”¹³⁸ Likewise, in Argentina, sexual minorities have suffered. They have worked toward liberation. They have worked across the borders that often separate people, living and learning in an international community. When discussing sexual minorities, we must keep in mind the multiple other identities all people create for themselves and those that are created by others about them to reach a deeper understanding of the role of gender and sexuality in society and culture (as well as the role of society and culture in sexuality and gender).

In the case of sexual minorities, several “differences” are involved, including sexual difference, which is extraordinarily pervasive. Expanding on her axiom, Sedgwick explains how people’s understandings of themselves, their identities, including sex and gender, sexuality, sexual orientation and acts, and so on, vary: “[s]ome people, homo-, hetero-, and bisexual, experience their sexualities as deeply embedded in a matrix of gender meanings and gender differentials. Others of each sexuality do not.”¹³⁹ While this study allows for people’s own understandings of themselves, society does not.

Argentina society subscribes to the hegemonic masculine identity known as *machismo*. Gustavo Fischman argues that “[t]he masculine identity that has acquired hegemonic position in a given society claims its superiority over alternative forms of masculinities and over women in

¹³⁷ Sedgwick, Eve K. pp. 22.

¹³⁸ Anzaldúa, Gloria. *Borderlands, La Frontera, The New Mestiza*. San Francisco: Aunt Lute Books, 1999. pp. 107.

¹³⁹ Sedgwick, Eve K. pp. 25-26.

general.”¹⁴⁰ The heterosexual *macho* man has the most power, over all other men, women, and sexual minorities. *Machismo* is a complex identity that has transformed over time. The modern sex/gender system in Argentina places the *macho* male identity ahead of the rest. The *macho* man contradictorily embraces women as mothers but exploits them as lovers. Under *machismo*, gay men are not “macho” because they do not conform to the “norm” of desiring women, and women who are not mothers are simply exploitable objects.

Section 3: *Machismo*

In Latin American culture and society, *machismo* is the prominent masculinity. As a concept, it falls somewhere between the English terms “chauvinism” and “chivalry.” As many words surrounding gender and sexuality and gender do not translate well (if at all) from English to Spanish, *machismo* is at best imperfectly translatable from Spanish. Stereotypically, especially outside of Latin America, *machismo* is interpreted as chauvinism. Granted, at times the parallel can be drawn; however, *machismo* does not, or at least did not always carry the same negative connotation as chauvinism in all its uses and understandings. While at times comparable to chivalry, it is also not an identical concept. *Machismo* is defined in *The Complete Dictionary of Sexology* by Robert T. Francoeur as:

“The concept and cultural imperatives associated with masculinity in Latin American cultures; the Latin American word for the mystique of manliness. *Machismo* stresses male physical aggressiveness, high risk taking, breaking the rules, casual uninvolved sexual relations with women, and elective penile insertion in other men. Though useful to describe an extreme male chauvinism, the term as used by non-Latinos to some extent represents a stereotype with deep-rooted judgments and cultural assumptions. The term is said to be derived from *macho* in the classical Aztecs language, meaning ‘image,’ ‘reflection of myself.’”¹⁴¹

As described in this brief definition, *machismo* has its role in gender, sexuality, and behavior.

For the purposes of this study, it is important to note the “elective penile insertion in other men”

¹⁴⁰ Fischman, Gustavo E. pp. 25.

¹⁴¹ Ibid., pp. 27-28.

that Francoeur refers to. Though not always understood or identified as a homosexual act, this is an act between two men that I argue is a sexual one. Where accepted as a legitimate aspect of the performance of masculinity, this man-man interaction becomes important to understanding gender and sexuality overall, especially in the context of sexual minorities. This section explores this and other complexities of *machismo* as an identity and a concept in Argentine society and culture.

Machismo and its Effects as a Hegemonic Masculinity

As previously mentioned, *machismo* is the hegemonic identity in Argentina. There are, however, other configurations of masculinity.¹⁴² Grouping “the males who deviate from the general norm with man, the oppressor, is a gross injustice.”¹⁴³ There is not a binary of *macho* versus everyone else; the various other masculinities are diverse and complex. Gay masculinities are just one example. Gay masculinities are considered subordinate masculine forms within the *machismo* system, and “[t]he common assumption of the hegemonic perspective is that male homosexuality is perversely connected to a pathological feminine position and as such must be repressed.”¹⁴⁴ This repression (and oppression) ranges from a “passive” intolerance to discrimination to violence in the form of hate crimes and other abuses.

Violence often plays an important role in the creation and assertion of masculinity. In the case of *machismo*, “aggressive behavior and intransience in male-male relationships and masculine sexual domination in male-female interactions” are stressed.¹⁴⁵ This is largely due to

¹⁴² Ibid., pp. 26.

¹⁴³ Anzaldúa, Gloria. pp. 106.

¹⁴⁴ Fischman, Gustavo E. pp. 26.

¹⁴⁵ Ibid., pp. 28.

the link of violence and gender, particularly within discourses of victimization and power.¹⁴⁶ As Leslie Walbridge argues: “Violence is often a way of using or achieving power, and power is gendered masculine. Being a victim of violence is often gendered feminine because being subjected to violence implies a position of powerlessness, which is the feminine position in patriarchy.”¹⁴⁷ Under *machismo*, “systematic use of sexual and symbolic violence against women and homosexuals (both men and women) is often justified as the defense of traditional family values, religious principles, and a loosely defined sense of public morality.”¹⁴⁸ For example *fútbol* (soccer), beloved by Argentines, reinforces the “tough guy” *macho* persona. School yard fights between boys are seen as a part of them growing up and becoming men. The military is dominated by men. Part of being a *macho* man is being violent. This is certainly problematic, because “gendering discourses around violence has a detrimental effect on work toward eliminating violence by coding violence as inevitable.”¹⁴⁹ Violence has been coded as inevitable “because it is connected with becoming a man.”¹⁵⁰ This creates a paradox: “In order to develop a true masculine identity, men have to endure very damaging emotional hardship and threatening practices.”¹⁵¹ Therefore, both women and men are victims of the harsh consequences of forming and (re)asserting masculinity.

Chauvinism or Chivalry?

As previously mentioned, the word *machismo* is not easily translated, as there is no direct equal to the system in English; the best translation that can be reached is somewhere between

¹⁴⁶ Walbridge, Leslie. “Violence and Gender Identity Formation.” December 2010. Unpublished paper.

¹⁴⁷ *Ibid.*, pp. 1.

¹⁴⁸ Fischman, Gustavo E. pp. 28.

¹⁴⁹ Walbridge, Leslie. pp. 1, 4.

¹⁵⁰ *Ibid.*

¹⁵¹ Fischman, Gustavo E. pp. 27.

“male chauvinism” or “chivalry.” Older forms of machismo, before racial shame imposed on the *macho* Latin American man by white men, could even be compared to “virility.”¹⁵² However, does today’s *machismo* fall in the middle, directly between the two, or is it more like one than the other?

Chauvinism can be defined as: “excessive or blind patriotism;” “undue partiality or attachment to a group or place to which one belongs or has belonged;” “an attitude of superiority toward members of the opposite sex” or “behavior expressive of such an attitude.”¹⁵³ Chivalry harkens back to medieval times, describing the ideal knight.¹⁵⁴ Nationalism is revered in Argentina, and is a part of the *macho* identity. The “attitude of superiority toward members of the opposite sex” is a given when it comes to romantic conquests; however, in regard to mothers, more complicated. Argentine culture has a high respect for mothers, as will be discussed in Section 5 of this chapter. The treatment of mothers comes much closer to “chivalry.” A pregnant woman is never left standing on a full *subte*, or subway, car, for example; a man will always vacate his seat for her. The tension between the gentlemanly behaviors and the more negative behaviors associated with *machismo* complicate the hegemonic *macho* gender and sexuality.

A *macho* man can at once be kind to his mother and abusive to his wife or lover: “Devoted son, macho pig.”¹⁵⁵ His love of his country can lead him to violent reactions at threats to his nationality or his nation. He can be homophobic and homosocial. He enjoys the privilege of being a masculine man, “the spoils of patriarchy.”¹⁵⁶ However, he also suffers. He must

¹⁵² Anzaldúa, Gloria.

¹⁵³ “Chauvinism.” Merriam-Webster. *Encyclopedia Britannica*. 21 February 2011. <<http://www.merriam-webster.com/dictionary/chauvinism>>.

¹⁵⁴ “Chivalry.” Merriam-Webster. *Encyclopedia Britannica*. 21 February 2011. <<http://www.merriam-webster.com/dictionary/chivalry>>.

¹⁵⁵ Anzaldúa, Gloria. pp. 105.

¹⁵⁶ Fischman, Gustavo E. pp. 25.

balance a complicated tradeoff of strength and weakness, mostly strength; like a knight, both a soldier and a gentleman. What causes these contradictions and how can the positives be made to outweigh the negatives?

The *machismo* identity has changed over time, even in the most recent generations. As Gloria Anzaldúa describes: “The modern meaning of the word ‘machismo,’ as well as the concept, is actually an Anglo invention.”¹⁵⁷ While, for her father’s generation, “being ‘macho’ meant being strong enough to protect and support my mother and us, yet being able to show love,” the modern *macho* man “has doubts about his ability to feed and protect his family. His ‘machismo’ is an adaptation to oppression and poverty and low self-esteem.”¹⁵⁸ The older *machismo* was much more like “chivalry,” while the modern *machismo* is far more like “chauvinism.” While the *macho* man had dominance in Anzaldúa’s society, the white man took over that dominance, becoming the new hegemonic masculinity, using “machismo” as an insult to describe Latin American men as inferior. Thus, *macho* men lost “a sense of dignity and respect,” which “breeds a false machismo which leads him to put down women and even to brutalize them. Coexisting with the *macho* man’s sexist behavior is a love for his mother which stands above all.”¹⁵⁹ Thus, not all women are treated badly under this modern *machismo* system, creating an opportunity. The modern *machismo* system oppresses men by making violence a prerequisite of manhood, oppresses women as the recipients of said violence. However, that same system reveres mothers, which means that nonviolence towards women is already partially in effect. The challenge is to change the Argentine system to allow for kindness and gentleness in men, liberating both men and women.

¹⁵⁷ Anzaldúa, Gloria. pp. 105.

¹⁵⁸ Ibid.

¹⁵⁹ Ibid.

Changing Machismo: Liberating Men and Women

How do we change the modern *machismo*? Anzaldúa says “[w]e need a new masculinity and the new man needs a movement. According to Anzaldúa, “we’re halfway there” because *machismo* societies love mothers; what must change is the dichotomy between the Virgin mother and the whore.¹⁶⁰ Women, men of subordinate masculinities under *machismo*, and sexual minorities play important roles in changing the system for the betterment of all by challenging the hegemony of the traditions and roles of the system. As Anzaldúa argues, sexual minorities in particular have an ability to alter the system thanks to their ability to cross cultures, bringing with them ideas and important contributions.

Those who challenge the *machismo* hegemony are the leaders of the efforts to change the system. The contradictions embedded in the hegemonic *macho* gender and sexuality identity can also be tested and questioned by the opportunities for interpretation and variation that exist within gender and sexuality identities and expressions. Sexuality minorities take advantage of those systems, challenging *machismo* as the dominant and powerful identity in the sex/gender system of Argentina. For example, “gay men have had the courage to [...] challenge the current masculinity.”¹⁶¹ Anzaldúa argues that homosexuals are “the supreme crosses of cultures,” bridging racial gaps, geographical borders, and other divisions that often keep other cultures separate.¹⁶² Sexual minorities bridge gaps, learning from one another across country borders, culture differences, and language boundaries. They transcend the constraints of the private sphere making their identities public and political. A similar strategy was used by the Madres de La Plaza de Mayo during and following the military dictatorship when the mothers, like sexual

¹⁶⁰ Ibid., pp. 106.

¹⁶¹ Ibid.

¹⁶² Ibid.

minorities eventually would, came out of the private sphere into the public sphere to challenge Argentine societal and cultural norms surrounding sex and gender to create change.

Section 4: Out of the House and into the Street: Redefining the Public and Private Spheres and the Divide Between Them

The case of *Las Madres de la Plaza de Mayo*, or the Mothers of the Plaza de Mayo, transformed the history of Argentina. The group, comprised of mothers of the disappeared, formed a successful movement. However, as with the case of the sexual minorities' rights movement, their accomplishments came from more than just a strong movement. Their triumph was the result of particular circumstances: first, their status as mothers; second, their interruption and redefining of the political and social scene in Argentina; and third, a collective desire to ensure the promise of *nunca más*.

As previously mentioned, as much as Argentina reveres *macho* men, it also loves and respects mothers. As Elon states, "though men conquer and humiliate women as lovers, they adore and worship mothers."¹⁶³ The "powerful presence" of the mother figure is reinforced by Catholicism.¹⁶⁴ Therefore, even against the military and the Catholic Church, the *Madres* had a particular freedom if not respect which afforded them greater opportunity than any other group of people to oppose the military dictatorship than any other group of people in Argentina. These women stressed their position as mothers by using their married names, while it is customary in Argentina for a woman to keep her maiden name. Perhaps unintentionally at first, the *Madres* unleashed their unique political power, transforming the dichotomy of public and private.

¹⁶³ Fischman, Gustavo E. pp. 30.

¹⁶⁴ *Ibid.*

When their sons and daughters (and grandchildren) disappeared, the women who became *Las Madres de la Plaza de Mayo* did not do what they, as women, were “supposed” to do. The mothers’ “identification with their maternal duties (and even with religious beliefs) and lack of political experience did not stop them [...] from crossing all the boundaries of very limited and controlled social and political structures.”¹⁶⁵ At first, they remained in their place in the home. However, they soon began to come out of the privacy of their homes and into the public sphere by going to the Plaza de Mayo, where the Casa Rosada (“Pink House,” where the executive branch of the Argentine government and the office of the President are located), is located. They intended to march up to the Casa Rosada, but protesting was banned at the time, and the *Madres* were told by the military to move along home.

The mothers kept moving, but instead of going home, they began to walk in circles around a statue in the center of the plaza. They were initially dismissed by many, including the government, as *locas*, “crazies” or “hysterics;” dismissed as no threat, they were essentially ignored. This, in combination with the culture’s adoration for mothers, provided the *Madres* with relative safety. A few mothers, however, were perceived as threats and were disappeared, presumably by the military. Overall, in the case of the *Madres*, the “weaknesses” of their femininity (their hysteria) became their saving grace, and their motherhood the source of their political power: they “forced the whole country to reconsider what was public and private.”¹⁶⁶ They brought the role of mother and the act of mourning, both considered “private,” into public. Furthermore, they denied authority, protested, and made demands, all in contrast to the traditional role of the submissive woman; such acts were reserved for *macho* men. The *Madres* challenged the passive feminine role under the *machismo* system, expressing an alternative

¹⁶⁵ Ibid., pp. 32.

¹⁶⁶ Ibid.

woman's identity. Fighting for their children became part of their motherhood. To this day, every Thursday at 3:00pm, rain or shine, some of the mothers still walk that circle, though most of them stopped circling when Néstor Kirchner became president because the *Madres*, particularly Hebe de Bonafini, finally felt they were heard by the government.

The *Madres* built a movement; “what began as individual suffering by isolated mothers became a powerful catalyst for public demonstrations and for seeking new ways of organizing and doing politics.”¹⁶⁷ Their common pain became a collective identity: mothers of the disappeared. Their political action challenged not only the current government and its violations of human rights, but also the way in which people participated in the political system. The mothers demanded answers, then for the recognition of human rights: “The ethical ideas and actions of this human rights group gave birth to a potent social movement and were also significant in the creation of a new discourse in which ethical components were the articulating axes of a new political scenario.”¹⁶⁸ This scenario provided opportunity to other groups. As the *Madres* had suffered a loss in the severe violation of their and their children's human rights, others in the country suffered as well. For many, due to their reclamation and redefinition of the feminine role under machismo and motherhood, “some human rights organizations and social movements have found greater levels of legitimacy and relative autonomy to maneuver, even amidst the most hostile conditions.”¹⁶⁹ The sexual minorities' rights movement and its organizations were among those beneficiaries.

By coming out of their houses and into the streets, the *Madres* not only fought for the rights of their disappeared children and grandchildren, but they also impacted the power differentials associated with gender:

¹⁶⁷ Ibid.

¹⁶⁸ Ibid.

¹⁶⁹ Ibid.

“By demanding an explanation from the government, combining the painful personal display with an ethical claim on behalf of principles such as motherhood, they ensured that their motives were not questioned by the military, nor could they be linked to ‘subversion.’ The mothers attacked the very heart of the repression’s patriarchal discourse and began to transform society’s indifference.”¹⁷⁰

Masculinity has the hegemonic position in patriarchy, and the *machismo* identity has the hegemonic position within masculinities in Argentina. When mothers first began marching, they were largely deemed as unthreatening; “what power could a group of women possibly have, especially over the military?” As it turned out, the *Madres* gained significant power over time. While at first they were dismissed as hysterics and “bad” women, they became national symbols of liberation, democracy, and human rights. Their roles as women and mothers went from being submissive, passive, and silent to being confrontational, active, and vocal.

Before the dictatorship, women were expected to stay in the house, quietly caring for their husbands and children. Throughout the dictatorship, it eventually became motherly for a woman to wear her lost child’s diaper on her head and scream and cry at the military for truth and justice. In some senses they were being mothers to the extreme; in others, however, they were being “deviant” women. They used the very gender identity that had left them oppressed to begin protesting when no man could voice an opinion contrary to the military’s without risking severe consequences. Thus, the position of the woman in patriarchy gained some power. That is not to say that women have achieved gender equality in Argentina; the feminine role in patriarchy is still one which struggles for equality and is discriminated against. Nonetheless, the *Madres* showed that women could be mothers and protesters. They could do what they felt was their duty to their children while at the same time establishing a very political position in Argentina. These women could demand recognition of the human rights of all people and be heard.

¹⁷⁰ Romero, Luis Alberto. pp. 239.

The *Madres* aided in the establishment of the human rights framework in Argentina which sexual minorities utilized to make demands as humans and citizens. They also shaped the public and political sphere by demanding a place in it. Although the demands made by the *Madres* and sexual minorities at first seem different and separate from one another, the relation between the two goes even deeper than the opportunity the *Madres* created for movements and organizations such as those of sexual minorities. The claims of both groups are fundamentally about human rights. Their common demand for the respect of human rights is rooted in the same history. Though the number is even more difficult to quantify than the overall number of *desaparecidos*, a portion of those kidnapped, tortured, and killed were sexual minorities. Thus, the bond of strife shared between the mothers could also be shared with the community of sexual minorities. More generally, however, the work of the *Madres* turned toward the recognition of human rights for all so that none would suffer atrocities like those they and their children had been subjected to. This human rights agenda included sexual minorities because they were a part of the “everyone” the mothers felt deserved basic human rights. In order to prevent such a tragedy from ever happening again, sexual minorities had to be protected along with everyone else to assure that human rights violations would not occur in Argentina ever again: *nunca más*.

Section 5: The Church and How Argentina Overcame Religious Opposition to Same-Sex Marriage

It seems surprising that a country in which Catholicism has a significant presence would legalize same-sex marriage. While the Catholic Church does have influence in Argentina, its power has been compromised by history, politics, and poor organization. First, the Catholic Church is not universally viewed as legitimate. Its compliance with the military during the 1976-

1983 dictatorship made the Church an enemy of many who opposed the dictatorship and its policies and practices. Second, in addition to legal separation of Church and State, there is also political and social tension between the two. Third, in addition to separation of Church and State, Argentina also has separation between Church and party.¹⁷¹ Finally, although Argentina is predominantly Catholic, “church attendance is low—approximately 22 percent of the population attends church services weekly,” and furthermore, “the Evangelical population is tiny (only 2 percent).”¹⁷² These factors allowed sexual minorities and their advocates to achieve victory in the same-sex marriage debate despite religious opposition.

The Church’s lack of power today is due largely in part to its compliance with the military during the dictatorship. The Church’s role was one of guidance as well as more direct involvement. Advising the military, “Churchmen taught that the positive law of the secular state could be ignored when inconsistent with the higher morality of God’s law, which justified the methods employed in the war against subversion.”¹⁷³ The Church helped justify the removal of what some priests called the “disease” that was “infecting” Argentina through preaching and private counsel, meaning those being disappeared by the military. A moral framework was established, further legitimizing the processes of kidnapping, detaining, torturing, and murdering people. Religious leaders not only took a role in the justification of these processes, but also in the processes themselves. In private, priests “offered justifications, drawn from medieval thought, for the practice of torture. Several in the military chaplaincy were present during torture sessions, encouraging victims to confess and collaborate, for the good of their souls.”¹⁷⁴

Therefore, when the horrors of the dictatorship were exposed, along with the military, the

¹⁷¹ Corrales, Javier and Mario Pecheny. “Six Reasons Why Argentina Legalized Gay Marriage First.”

¹⁷² Ibid.

¹⁷³ Osiel, Mark J. pp. 130.

¹⁷⁴ Ibid.

Church was also exposed for its role. As the military was delegitimized, challenged, and even despised, so was the Catholic Church. For some, the damage done was irreversible, and the Church is still known for its connection to “evil” by some Argentines, as exemplified by the 1976-1983 dictatorship.

The impact left by the Catholic Church’s participation in the dictatorship played an important role throughout the process leading to legalization of same-sex marriage. The gay marriage debate worsened the already tense division between Church and State. Church leaders sponsored protests. One protest was “marked by sharp exchanges between [President Cristina Fernández de] Kirchner and the archbishop there.”¹⁷⁵ These “sharp exchanges” occurred throughout the process of the legalization of marriage equality. When the Church began to use language that described sexual minorities as somehow less deserving of their human rights, President Cristina de Fernández de Kirchner called the Church’s language and efforts “medieval.” During one battle of this “war of words,” Cardinal Jorge Bergoglio, the archbishop of Buenos Aires, [...] declared [the bill] a ‘destructive attack on God’s plan.’¹⁷⁶ President Cristina Fernández de Kirchner responded with severe criticism, “saying that their discourse on the issue resembled ‘the times of the Crusades’ and that they failed to acknowledge how socially liberal Argentina had become.”¹⁷⁷ In a statement, the President said: “They are portraying this as a religious moral issue and as a threat to ‘the natural order,’ when what we are really doing is looking at a reality that is already there [...]. It would be a terrible distortion of democracy if they denied minorities their rights.”¹⁷⁸ As summarized by the President, for Argentina, same-sex marriage was not a religious issue, despite the Church’s opposition.

¹⁷⁵ Barrionuevo, Alexei.

¹⁷⁶ Ibid.

¹⁷⁷ Ibid.

¹⁷⁸ Ibid.

Generally speaking, religion and politics are separated enough that the Church can be and has been overridden by a majority. In the case of Argentina, this separation is not quite secularism (there are religious people present in government); however, as mentioned, there is separation of Church and State. There is an explicit separation between the Church and the State in regard to marriage: Argentina's Law of Civil Marriage and Registry separated the Church from direct legislation of marriage far before the same-sex marriage debate arose. The law, "inspired by the most progressive European legislation of the day, imposed the state's presence [in what were considered to be] the most important events in an individual's life—birth, marriage, and death—until then regulated by the Church."¹⁷⁹ Therefore, while the Church had much to say in the same-sex marriage debate, the ultimate decision on the bill was in the hands of the government, not the Church. Despite the opposition in the Church, if there was support for the bill from the government, which there clearly was, it was beyond the Church's control.

Furthermore, and perhaps more importantly, there was also separation between Church and party. This separation proved important in the legalization of same-sex marriage because it permitted legislators to vote against the position of the Church. Corrales argues:

"It is not enough to have separation of church and state, as do most countries in the region. It is vital to have separation of church and party. Although the church's officialdom is powerful in Argentina, the country has not had a strong confessional party for the past 100 years. There is no strong Christian Democratic party [...]. There is no party with strong connections with Evangelical groups as the Republicans in the United States [...]. This is one reason that so many legislators in Argentina, from all parties, risked voting against the pulpit."¹⁸⁰

Thanks to this cultural and societal context, the sexual minorities' rights movement had advantage and opportunity: the Church was one of the greatest opponents of same-sex marriage; however, its opposition was too weak to overcome the support gained by sexual minorities.

¹⁷⁹ Romero, Luis Alberto. pp. 15.

¹⁸⁰ Corrales, Javier and Mario Pecheny. "Six Reasons Why Argentina Legalized Gay Marriage First."

Low Catholic church service attendance coupled with a small Evangelical population leaves any negative religious response to same-sex marriage weak and disjointed. While many taxi drivers have pictures and symbols of saints swinging from their rearview mirrors, and religious paraphernalia such as images of the Virgin Mary, Patron Saints, and Jesus Christ can be found most anywhere, Sundays are filled with activities other than going to church. The opinions of religious people are diverse, and the weekly gatherings that could provide greater unification are not well attended. Organizing and articulating protest is therefore difficult and struggles to be effective in the best of circumstances. Given the Church's role in the 1976-1983 dictatorship, Catholic influence already suffered from poor circumstances surrounding trust and legitimacy in the eyes of the people and the government. The low Catholic church attendance and low numbers of Evangelicals, Corrales argues, "helps predict pro-LGBT legislation because it reveals the extent of societal secularism as well as the mobilizational weakness of the churches."¹⁸¹ It is important to note that "Argentina is distinctive on both counts."¹⁸² Therefore, while the nation is predominantly Catholic, and the Catholic Church is predominately homophobic, there is disconnect between (the influence of) religion and the public. Given that the largest and loudest opponents of same-sex marriage are religious, these are extremely important to note. Despite the influence of religious homophobia, by the time the same-sex marriage bill reached the government, it seems the Church had already lost.

Empowering Opposition

The paradox of oppositional forces such as the Church is that such opposition often aids the efforts it is trying to work against. First, extreme opposition splits off and deepens divides

¹⁸¹ Ibid.

¹⁸² Ibid.

not only between the two forces on either side of the debate, but also within the opposition itself. As mentioned, the support of same-sex marriage that some religious leaders offered divided the Church. While some Bishops and other church leaders came out strongly against same-sex marriage, others aligned with the pro-same-sex marriage efforts. Although the forces against gay marriage had the Pope on their side, they did not have all of the religious leaders in Argentina. The less united an effort, the more difficult it is to achieve results; thus, divisions within the Church weakened the power of their opposition overall, shrinking its capacity to overrule the widely held attitudes of support for the bill. Additionally, chasms between the Church and, for example, President Cristina Fernández de Kirchner, widened. President Cristina Fernández de Kirchner spoke out against the Church and the language it used during the debate. With such strong opposition, the mission of the pro- forces became evermore clear and reasonable.

Second, opposition often helps those they are opposing clarify their mission. Law 26.618 was about affording the same marriage rights to same-sex couples as were given to heterosexual couples as citizens of Argentina. The law modified the Civil Code of Argentina to provide equal rights and legal recognition of marriage to same-sex couples, as well as adoption and inheritance rights; it did not, for example, require all religious leaders to support or perform same-sex marriages. As in the case of Jose Maria Di Bello and Alex Freyre, who were initially denied their request to marry, it was possible to find religious and political leaders who supported their marriage and allowed it to happen, in spite of those who might oppose it. The law was not about creating new or special rights for gays; it was about equality. The law did not even establish explicit nondiscrimination of same-sex couples, let alone sexual minorities in general. The mission of the bill was simple enough: the same rights to marriage with the same name.

Despite religious people who only supported marriage between a man and a woman, the State, distinct from religion, had a responsibility to all of its citizens in regard to marriage, not just heterosexual couples. The request for same-sex marriage in the form of a bill that would alter the Civil Code was one the government would not refuse because the law was a the first step in reversing the denial of rights to a minority. It was important to Argentina's democracy that the majority not deny rights to the minority. Public support of the bill furthered this belief, furthering the mission of pro-gay marriage activists. Not legalizing same-sex marriage would have been explicitly and intentionally maintaining discrimination against some of Argentina's citizens. Such a denial of the rights of citizenship to some was unconstitutional, and per the belief of many supporters, against what Argentina represents and upholds.

Third, when the case of gay rights is placed within the context and discourse of human rights, it gains a place within a particular agenda, especially in Argentina. With the Church calling homosexuals sinners and using the Bible as their weapon, pro-gay rights efforts were given the opportunity to streamline their reaction to this opposition. Whether or not one believes that homosexuality is morally "right" or "wrong," it is difficult to justify an argument which advocates limiting the human rights of sexual minorities, even from the religious standpoint. To argue that homosexuals deserve less than full human rights, one must also, by definition, argue that homosexuals are less than human. Few take up this argument, even among the most vehement opponents to gay rights; not many people would be willing to sacrifice their own rights to ensure the denial of rights to someone else. Placing efforts to achieve equality and nondiscrimination within the discourse of human rights provided a strong foundation from which to build a case which was ultimately successful.

Section 6: Conclusion

Argentine society and culture played an important role in the legalization of same-sex marriage, particularly surrounding themes of gender and sexuality. As the hegemonic sex/gender/sexuality system, *machismo* was an adversary to sexual minorities in many ways. However, it also empowered sexual minorities with its tendency toward homosociality. Furthermore, the *macho* man's love of his mother placed the Madres de la Plaza de Mayo in a unique position of power. By coming out of their homes and into the streets to protest, these mothers redefined the public and private spheres. Crying and yelling in the street for their children, they made private acts public and political. They fought against the State and the Catholic Church, breaking from the traditional role of women to make their demands. When the mothers were finally heard and they were joined by others demanding truth, justice, and democracy, the military and the Church suffered significant blows to their legitimacy.

The Argentine nation wanted human rights protected by the state. As a part of that nation, sexual minorities began to make demands of their own, revamping their silenced social movement to articulate their demands within the new context of human rights. Challenging the hegemony of *machismo*, sexual minorities brought their identities to the forefront of their efforts, organizing around gender and sexuality that was beyond the norm and indeed challenged the very existence of said norm and its constructed constraints. They came out of the closet to claim their rights along with the rest of the Argentine citizenship. In so doing, like the *Madres*, they made the private public to gain recognition, nondiscrimination, and equality.

For Argentine sexual minorities, the so-called safety of the closet was false security which left them ignored and oppressed by the majority. By demanding they be considered equal as humans and as citizens, the Argentine sexual minorities embraced their social, cultural, and

historical contexts to fight for their rights, beginning with same-sex marriage. The delegitimized Catholic Church, the biggest enemy of same-sex marriage in Argentina, lacked public support; when the Church began to fight efforts to attain marriage equality, the public largely supported sexual minorities instead. Thanks to these circumstances, sexual minorities were able to organize, form a movement, eventually gain sufficient support, and ultimately achieve success at the national level with the legalization of same-sex marriage.

Chapter IV: From Oculito to Orgulloso, The Movement

Section 1: Out of the Closet and into the Street:¹⁸³ The Birth of a Movement

Before the military dictatorship in 1976-1983, sexual minorities imported the then novel trend of gay rights and began to organize efforts using methods and models from abroad. The word “gay” itself is a direct import into Spanish from English. Like its modern colloquial use in English, the Spanish word “gay” referred and refers most commonly to homosexual men, but became used increasingly over time to describe the sexual minorities community and rights movement in Argentina. Argentine sexual minorities, especially homosexual men, adopted the term and organized themselves around a common identity with a newly imported name. Today, Argentines often say “*el matrimonio gay*” (gay marriage) to refer to same-sex marriage, “*los derechos gay*” (gay rights) to refer to the rights of sexual minorities, and “*el movimiento gay*” (gay movement) to refer to the sexual minorities rights movement.

It is difficult to pinpoint a particular beginning of the sexual minorities’ rights movement in Argentina, as social groupings existed before more formal organizations. Local activists have their own understanding of when the movement began, which may differ from their peers’ understandings. However, this project marks its beginning at the end of the 1960s. The first recognized organization formed the same year as the Stonewall riots revolutionized the gay rights movement in the United States: “[i]n ‘November 1969, while Argentina was under military rule, the Grupo Nuestro Mundo (Our World Group) was founded in Buenos Aires, becoming the first gay political organization in Latin America (though informal social groups had previously existed).’¹⁸⁴ Shortly thereafter, “[i]n 1971 the Grupo Nuestro Mundo and several others, including mostly male left-wing university students, anarchists, and religious

¹⁸³ Motto of the Stonewall Riots in New York, New York, 1969.

¹⁸⁴ Brown, Stephen. pp. 120.

organizations joined to form the radical Frente de Liberación Homosexual (Homosexual Liberation Front—FLH).¹⁸⁵ It is important to note that here, “religious organizations” does not mean churches or even religiously affiliated organizations; rather, these organizations simply had Christian leanings. Local activists often point to one of these organizations as the beginning of the sexual minorities’ rights movement in Argentina, especially the FLH. As Emiliano Litardo, a lawyer who works a local GLBT rights group, describes:

“One of the important historical anecdotes of the GLBT movement here in Argentina came at the hands of the group Nuestro Mundo, there at the end of the sixties, and the beginning of the seventies. Later this was derived into that which came to be called the Frente de Liberación Homosexual, the FLH, which in the genealogy of the GLBT movement, was the most important movement and the first movement with a certain historical relevance that called into question the theme of GLBT sexual rights. All of this within a global context that drove it all. We’re talking about the seventies. In the United States, Stonewall was important; in Europe, particularly in the case of England, Germany, it generated a defense here in Latin America and specifically Argentina, and the Frente de Liberación Homosexual emerged.”¹⁸⁶

The movement continued to grow until Juan Perón’s death in 1974, when his wife Isabel took over the presidency, and “there was a rapid upsurge of right-wing paramilitary attacks on homosexuals.”¹⁸⁷

Such attacks limited the ability of sexual minorities to fight for their rights and freedoms openly. Marcelo Ferreyra, a well-known activist who works for the International Gay and Lesbian Human Rights Commission (IGLHRC) and an essential part of the sexual minorities rights movement, said “the FLH lasted until the military dictatorship began again in the year ‘76, where those members emigrated, disappeared, etc.”¹⁸⁸ The military coup in 1976 shut down their efforts; some homosexuals were among those tortured, murdered, and disappeared.¹⁸⁹ It is difficult to know for sure how many people were disappeared by the military. The numbers of homosexuals and other sexual minorities who were disappeared are especially challenging to

¹⁸⁵ Ibid.

¹⁸⁶ Litardo, Emiliano. Buenos Aires, Argentina. 24 May 2010. Translation is my own.

¹⁸⁷ Brown, Stephen. pp. 121.

¹⁸⁸ Ferreyra, Marcelo. Translation is my own.

¹⁸⁹ Brown, Stephen. pp. 121.

quantify. Due to the ever-present danger during the dictatorship, many sexual minorities “left the country, and those who remained suspended their public activities. The FLH dissolved in June of that year.”¹⁹⁰ Sexual minorities became one group of many to be silenced by the military dictatorship. Another local activist, Gabriela Bacin, said that “in the dictatorship there was some recess, some cut off.”¹⁹¹ Any efforts were an invitation for kidnap and murder; the community could not afford to be outspoken. Such threat weighs heavily on collective identity and networking, as even simply connecting with other sexual minorities could be considered organizing, and therefore defying the dictatorship. During that time, the community suffered a repression more stifling than any discrimination present in the recent history of Argentina.

During the rebirth of democracy with the election of President Raúl Alfonsín after the dictatorship, however, sexual minorities once again had the opportunity to organize and the movement once again found its voice. It was at this time that “another super important movement,” the Comunidad Homosexual Argentina (CHA) appeared.¹⁹² CHA “took the experience of the FLH, but in other historical times that had to do with the advent of democracy already by ’84, when CHA formed.”¹⁹³ In this particular moment, “CHA came with an idea of practice very different from the FLH, above all because historical times changed;” the FLH arose in “revolutionary times” of the ‘60s and ‘70s, both in Argentina and the rest of the world, but “CHA, on the other hand, came about in a very particular historical moment that had to do with the entrance of democracy of Argentina society and with interference of the agenda of human rights.”¹⁹⁴ The voices of sexual minorities joined a chorus of those declaring the oppression they had suffered during the dictatorship. They articulated their demands within a new framework, in

¹⁹⁰ Ibid.

¹⁹¹ Bacin, Gabriela. Buenos Aires, Argentina. 2 June 2010. Translation is my own.

¹⁹² Litardo, Emiliano. Translation is my own.

¹⁹³ Ibid.

¹⁹⁴ Ibid.

terms of human rights. In a country rejecting discrimination and repression in response to the horrors suffered, the early 1980s brought about an environment in which various groups found themselves aligning on perhaps unexpected grounds. Having collectively suffered such an injustice to their personal rights and freedoms, they organized around preventing future human rights violations.

Section 2: Argentine Sexual Minorities Efforts as a Social Movement

Sexual minorities in Argentina have formed a collective identity, taken collective action, and built networks both before and during these processes, effectively forming a social movement. In 2002, Stephen Brown wrote that “Argentina hosts a lesbian, gay, bisexual, and transgender movement that is sometimes quite visible and results in concrete political advances.”¹⁹⁵ Eight years later, the movement has achieved a milestone in the legalization of same-sex marriage. Here I examine the theoretical basis for the social movement that made it possible.

Throughout the study and theory of “social movements,” several definitions of the phrase exist. Early theorists, writing in the mid 1960s through the late 1970s, Mayer Zald, Anthony Oberschall, and Charles Tilly define social movements as “rational, purposeful, and organized actions” that develop a cost-benefit understanding, including consideration of available resources.¹⁹⁶ The application of the concept of cost-benefit theory to social movements is limited. For any group of people to accomplish such intentional and pre-analyzed action requires intense internal cohesion. Newer social movement theories develop these initial ideas, broadening their base.

¹⁹⁵ Brown, Stephen. pp. 119.

¹⁹⁶ Della Porta, Donatella, and Mario Diani. pp. 14.

Later studies take approaches including “new social movements, collective behavior, resource mobilization, and political process approaches.”¹⁹⁷ These new movements bring new evidence, new material to study, new perspectives, and thus, new theory. Sidney Tarrow, writing in the late 1990s, argues for the reservation of the term “social movement” for “those sequences of contentious politics that are based on underlying social networks and resonant collective action frames, and which develop the capacity to maintain sustained challenges against powerful opponents.”¹⁹⁸ The state is such an opponent; for example, James Petras and Henry Veltmeyer specifically argue that social movements “are engaged in a struggle for state power.”¹⁹⁹ Though the cost-benefit approach may still serve as a baseline in newer social movement theory, Tarrow and others push previous theory beyond its limits. Tarrow argues that contentious collective action is “the basis of social movements,” and such actions “challenge powerholders, produce solidarities, and have meaning within particular population groups, situations and national cultures.”²⁰⁰ This broader understanding of how social movements form and function offers the opportunity to better understand the movements overall. It provides answers to perhaps previously unanswerable questions regarding the emergence, lifespan, and movement dissolution, as well as the distinction between social movements and other types of movements.

Donatella Della Porta and Mario Diani argue that “[t]he genesis of social movements is in the co-existence of contrasting value systems and of groups in conflict with each other.”²⁰¹ Social movements arise from social conflict, bringing together individuals and groups who serve as actors. The collective identity developed, collective action taken, and networks built are essential, both enabling and result from their efforts over time. Diani maintains that “social

¹⁹⁷ Ibid., pp. 29.

¹⁹⁸ Tarrow, Sidney. *Power in Movement*. pp. 2.

¹⁹⁹ Petras, James, and Henry Veltmeyer. pp. 3.

²⁰⁰ Tarrow, Sidney. *Power in Movement*. pp. 3.

²⁰¹ Della Porta, Donatella, and Mario Diani. pp. 13.

movements are a distinct social process, consisting of the mechanisms through which actors engaged in collective action: are involved in conflictual relations with clearly identified opponents; are linked by dense informal networks; share a distinct collective identity.”²⁰²

While developing this newer understanding of social movements, it is also important to clarify what a social movement is not. Della Porta and Diani also clearly point out that mobilizations based on “solidarity issues, for example, on social exclusion in domestic politics, or on development or human rights issues in an international perspective” are not social movements, rather they are “consensus movements.”²⁰³ The difference is that in consensus movements, “sustained collective action does not take a conflictual element.”²⁰⁴ Thus, Tarrow’s “sequences of contentious politics,” “social networks,” and “resonant collective action frames” become important differentiating features of social movements, uniquely enabling them to “maintain sustained challenges against powerful opponents.”²⁰⁵ While these theories offer an understanding of what is and is not a social movement, the case of sexual minorities’ movements remains unexplored territory in the field.

Brown notes that “[n]ot even the latest syntheses of contemporary social-movement theory discuss lesbian and gay movements to any significant degree,” and that “[e]ven the most important works on ‘social theory’ tend to ignore sexuality.”²⁰⁶ Brown discusses existing social theory stating that “[a] large part of the literature on social movements focuses on resource mobilization and obtaining policy results.”²⁰⁷ Gay and lesbian movements such as the one in Argentina are “a product of global shifts away from societies based on production and toward

²⁰² Ibid., pp. 20.

²⁰³ Ibid., pp. 22.

²⁰⁴ Ibid., pp. 23.

²⁰⁵ Tarrow, Sidney. *Power in Movement*. pp. 2.

²⁰⁶ Brown, Stephen. pp. 119

²⁰⁷ Ibid., pp. 126.

postmaterial, information societies, in which states and complex systems have come to invade the individual's very core."²⁰⁸ In order to frame the Argentine sexual minorities' rights movement "'in terms of the logic of strategic interaction and cost benefit analysis,' using such 'objective' variables as organization, interests, resources, opportunities, and strategies," Brown argues that the movement must be linked to democratization, the human rights discourse, and the international dimension.²⁰⁹ Brown also highlights the importance of identity, which is central to social movements. The role of identity in sexual minorities' efforts is extraordinarily complex, as was described in Chapter III.

The context in which the sexual minorities' movement exists is central to its conceptualization as a social movement. The environment, while prepared with historical pathways and cultural and social opportunities for variation and interpretation, is hostile to sexual minorities, who suffer discrimination from other citizens, lawmakers and enforcers, and the State. The Argentine state had historically refused to recognize "'sexual minorities' as legitimate collective actors and members of civil society."²¹⁰ As Donnelly notes, "[e]ven where members of sexual minorities need not fear violence of criminal prosecution, they usually are subject to civil disabilities and social discrimination."²¹¹ Such is the case in Argentina. Sexual minorities were subsequently divided from the rest of civil society based solely on their "transgressive sexual desire," grouped despite any internal discrepancies of regarding the many identities that fall under the "sexual minority" umbrella. In Argentina, "conditions for organizing around sexual identity [...] rested on prior structural (social-historical) changes and

²⁰⁸ Thayer, Millie. "Identity, Revolution, and Democracy, Lesbian Movements in Central America." p. 144-172. Javier Corrales and Mario Pecheny. *The Politics of Sexuality in Latin America: A Reader on Lesbian, Gay, Bisexual, and Transgender Rights*. Pittsburgh: The University of Pittsburgh Press, 2010. pp. 145.

²⁰⁹ Brown, Stephen. pp. 126.

²¹⁰ Ibid., pp. 124.

²¹¹ Donnelly, Jack. pp. 231.

international diffusion.”²¹² These very conditions that created the sexual minorities’ movement characterize it as a social movement.

In the case of the sexual minorities’ movement in Argentina, the necessary conditions and traits exist to label it as a social movement per existing theory. It is important to note, however, as Brown discusses, that it is unique. The collective identity of sexual minorities is politicized; indeed, “[t]he building of collective identities associated for political action reveals the central problem of the processes by which certain social actors emerge as political subjects.”²¹³ First, though a lesbian woman, a gay man, and a transperson may not have much in common, society groups them together in its discrimination. The community of sexual and gender minorities has united not only in response to this blanket discrimination, but also due to the simple fact that there is strength in numbers. A small and separate gay men’s group or lesbian women’s group is nowhere near as large as, for example, the population that shows up to a Pride march (which includes allies to sexual and gender minorities). This collective identity is therefore essential because it is public and empowering, both necessary components to a successful social movement:

“On the one hand, lesbians and gay men have made themselves an effective force [...] largely by giving themselves what civil rights movements had: a public collective identity. Gay and lesbian social movements have built a quasi-ethnicity, complete with its own political and cultural institutions, festivals, neighborhoods, even its own flag. Underlying that ethnicity is typically the notion that what gays and lesbians share—the anchor of minority status and minority rights claims—is the same fixed, natural essence, a self with same-sex desires. The shared oppression, these movements have forcefully claimed, is the denial of the freedoms and opportunities to actualize this self. In this *ethnic/essentialist* politic, clear categories of collective identity are necessary for successful resistance and political gain.”²¹⁴

While the notion of a collective identity among sexual minorities is complex and at times problematic, it does exist and it is important. Thus, although the sexual minorities’ rights

²¹² Brown, Stephen. pp. 123.

²¹³ França, Isadora Luis. “‘Every Jack to His Trade?’ Power Arrangements, Policies of Identity, and Market Segmentation within the Homosexual Movement.” p. 421-427. Javier Corrales and Mario Pecheny. *The Politics of Sexuality in Latin America: A Reader on Lesbian, Gay, Bisexual, and Transgender Rights*. Pittsburgh: The University of Pittsburg Press, 2010. pp. 422.

²¹⁴ Gamson, Joshua. pp. 391.

movement in Argentina has unique characteristics due to the identities which form its various parts, it is a social movement nonetheless.

The efforts of sexual minorities in Argentina quickly developed into “rational, purposeful, and organized actions.”²¹⁵ This purposeful organization grew out of a pressing need for recognition and respect of rights and the political opportunity to come together and act as a group. As the movement has transformed over time, even in its early stages, sexual minorities behaved collectively, mobilizing their resources, and utilizing the political process.²¹⁶ The movement built social networks, gaining strength and effectiveness learning from one another, uniting, and fighting as a larger group. Eventually, the movement developed what Tarrow describes as a social movement’s “capacity to maintain sustained challenges against powerful opponents.”²¹⁷ It is these opponents and the subsequent conflicts created by the clash of differing value systems that make this movement a social movement.

Sexual minorities around the world face plentiful opponents. Argentine sexual minorities must combat discrimination and oppression daily. The gender-based ideologies of *machismo*, for example, are powerful opponents. At first glance, the sexual minorities’ rights movement may seem to be what Della Porta and Diani call a “consensus movement,” as the movement did mobilize on solidarity issues and human rights issues.²¹⁸ However, the movement maintains the required element of “sustained collective action” that takes “a conflictual element.”²¹⁹ In the 19070s and 1980s, sexual minorities’ movements “represented means of resisting [...] growing threats to personal autonomy.”²²⁰ At first, instead of “contesting for political power, or pressing

²¹⁵ Della Porta, Donatella, and Mario Diani. pp. 14.

²¹⁶ Ibid., pp. 29.

²¹⁷ Tarrow, Sidney. *Power in Movement*. pp. 2.

²¹⁸ Della Porta, Donatella, and Mario Diani. pp. 22.

²¹⁹ Ibid., pp. 23.

²²⁰ Thayer, Millie. pp. 145.

demands on the state, [sexual minorities'] movements struggled for the right to difference. Construction and defense of identity were central concerns."²²¹ They were outsiders of the existing system; they wanted to right to be who they were, to not be forced to conform to a system into which they did not fit.

The sexual minorities' movement in Argentina was born out of and to this day acts in the context of "the co-existence of contrasting value systems and of groups in conflict with each other."²²² Their relationship with the state and its actors has been a challenging one.²²³ The sexual minorities' movement challenged these social powerholders and produced solidarities based on their similarities and their differences. Especially after the Dirty War and the subsequent rebirth of democracy, the sexual minorities' movement had meaning even beyond its internal members, especially to others who suffered injustices. They were up against the state, the church, and society. Argentine sexual minorities built undergrounds to help and support each other, as well as to make, work towards, and attain their goals. They came together around a common identity which has grown to include several identities in one. Due in part to the strength and power found in the identity, networking, and collective action of sexual minorities, same-sex couples can now marry in Argentina. The analysis of sexual minorities' efforts as a social movement plays an essential role in providing a complete understanding the circumstances that made this possible.

Given that this movement fits the definitions of a social movement, the remainder of this chapter continues to utilize the existing theory on social movements to analyze it as such. The opponents have already been established. First, local actors who compose the groundwork of the movement will be introduced. Next, how these actors work to accomplish social/cultural and

²²¹ Ibid., pp. 145.

²²² Della Porta, Donatella, and Mario Diani. pp. 13.

²²³ Brown, Stephen. pp. 123.

political/legislative change will be examined through a case study of these actors. These actors challenge those in power, form alliances, and “have meaning,” as Tarrow says, within the Argentine context due largely in part to their positioning of their demands within the human rights context and themselves as those who continue to suffer human rights violations long after the promise of *nunca más*. Finally, the role of international networks in the movement, particularly gay [rights] networks, is examined to determine the importance of utilizing international connections.

Section 3: Local Actors²²⁴

The organizations studied in “Otra condición social”: Todos los derechos para todxs, Un estudio de caso de los derechos humanos de minorías sexuales en la Argentina (“Other Status”: All Rights for All, A Case Study of Human Rights of Sexual Minorities in Argentina)

La Comunidad Homosexual Argentina (CHA), which translates to the Argentine Homosexual Community, is the self-proclaimed “oldest GLTTB organization of the country” and “is composed of gay, lesbian, travesti, transsexual, and bisexual people who work *ad-honorem* for the nondiscrimination of people due to their sexual orientation and gender identity.”²²⁵ Though not the first to appear, CHA has continued to function since its foundation in 1984. When it was created, the organization arose with a dire need to fight “in favor of the abolition of police edicts and against the repression that they legitimated.”²²⁶ At the time, “the trend, that which marked CHA’s agenda, was the defense of human rights. This was when GLBT sexual rights took on the juridical form of their approach according to the paradigm of

²²⁴ This section is a loose translation of a section describing these organizations in my project, “Otra condición social”: Todos los derechos para todxs, Un estudio de caso de los derechos humanos de minorías sexuales en la Argentina.

²²⁵ “Quienes somos”. Comunidad Homosexual Argentina. 3 June 2010. <<http://www.cha.org.ar/simple.php?menu=10&cat=49>>.

²²⁶ Ibid.

human rights.”²²⁷ Furthermore, CHA had an important role in the fight against AIDS, was a member of the Comisión Organizadora de la Marcha del Orgullo GLTTB, the organization that organizes the annual Pride march, Foro Nacional de ONGS con Trabajo en VIH-Sida (National Forum of NGOs doing HIV-AIDS Work), the Task Force GLTTB (Gay, Lesbian, Travesti, Trans, and Bisexual Task Force), and other organizations that formed the GLTTB network in Argentina.²²⁸ Today, CHA offers services to the community of sexual minorities such as a hotline that helps counter discrimination, and collaborates with other organizations that include IGLHRC and Amnesty International.²²⁹

Founded in 1990 by United States’ activist Julie Dorf, the **International Gay and Lesbian Human Rights Commission (IGLHRC)** “is a leading international organization dedicated to human rights advocacy on behalf of people who experience discrimination or abuse on the basis of their actual or perceived sexual orientation, gender identity or expression.”²³⁰ IGLHRC’s mission is “advancing human rights for everyone, everywhere to end discrimination based on sexual orientation, gender identity, or gender expression.”²³¹ Though the organization’s name only includes gays and lesbians, IGLHRC includes bisexual, trans, and intersex people in their work. IGLHRC has offices around the world, including Buenos Aires, Argentina, which is home to the Latin American and Caribbean, or LAC, program. Marcelo Ferreyra, one of the three staff people of the LAC program, says that the program works in two main ways: “one, capacitating activists, and the other, giving them opportunities at the international level.”²³² This work is done through activists institutes, which include activists

²²⁷ Litardo, Emiliano. Translation is my own.

²²⁸ “Quienes somos”.

²²⁹ Ibid.

²³⁰ “About Our Work.” IGLHRC. 30 May 2010. <<http://www.iglhrc.org/cgi-bin/iowa/content/about/index.html>>.

²³¹ “Our Mission.” IGLHRC. 30 May 2010. <<http://www.iglhrc.org/cgi-bin/iowa/content/about/missionandvision/index.html>>.

²³² Ferreyra, Marcelo. Translation is my own.

from all over the region, and through efforts to “help the organizations that make up the effort in each country to connect with the international human rights bodies” through strong relationships that IGLHRC has with “the Organization of American States, Mercosur, and the United Nations.”²³³ The LAC team believes that an international human rights structure, agreements between countries, makes it less difficult to change legislation,” and furthermore, the team “helps those countries that still have not achieved [legislations that protect the rights of sexual and gender minorities] to promote them.”²³⁴

La Federación Argentina LGBT (FALGBT), the Argentine LGBT Federation, was founded in 2006 by a group of organizations that shared “the need to create a new nationwide organization of the different groups of lesbians, gays, bisexuals, and trans.”²³⁵ María Rachid, president of the FALGBT, said that the organization “emerged primarily because we considered that the national issues should be tackled federally,” including “the participation of the voices of the organizations of the provinces. Therefore, it did not seem okay that an organization in the capital decide, plan the work about national issues, without [...] the representation of the people who lived in the various provinces.”²³⁶ The objectives of the Federation include “working for LGBT community’s access to all of their human and civil rights.”²³⁷ All of the objectives of the Federation “have to do with the human rights of gays, lesbians, bisexuals, and trans.”²³⁸ The FALGBT “thus began a path of growth that, little by little, is summoning other sectors,” including “the rotation the executive directors with representation of the different identifies,

²³³ Ibid.

²³⁴ Ibid.

²³⁵ Objetivos y Propuestas de la Federación Argentina de Lesbianas Gay Bisexuales y Trans (FALGBT). 3 June 2010. <<http://www.lgbt.org.ar/02-objetivos.php>>.

²³⁶ Rachid, María. Translation is my own.

²³⁷ Objetivos y Propuestas de la Federación Argentina de Lesbianas Gay Bisexuales y Trans (FALGBT).

²³⁸ Rachid, María. Translation is my own.

gender equality, and the democratic election of authorities.”²³⁹ With a “spirit of integrations, articulation, and participation, the Federation sets out to organize all the groups of different places of the country that work for the national objectives and demands that unite us.”²⁴⁰

Furthermore, Marcelo Ferreyra, the coordinator of the IGLHRC LAC program, “[collaborates] with the Federation, as a consultant in International Relations.”²⁴¹ The FALGBT “is very new but has old needs [...] and since we funded the Federation, the organizations that we founded led us toward equal rights. ‘The same rights, with the same names,’ was our slogan since the beginning.”²⁴²

Lesmadres is “a political action group composed of families of lesbian mothers and future mothers who decide to have children.”²⁴³ The organization arose in May 2008, growing out of the first Encuentro Nacional de Lesbianas y Bisexuales, or National Conference of Lesbians and Bisexuals, in Rosario.²⁴⁴ Gabriela Bacin, a member of Lesmadres, described the women of the organization as “very focused in our situation in particular,” as Lesmadres was formed “due to the lack of rights that our families have, and our work is focused [on] the recognition of the rights of our children, of our families, and of ourselves as lesbians.”²⁴⁵ Their demands “are oriented to the political, social, cultural, and legal recognition of [those rights].”²⁴⁶ They work “to achieve the respect of all diversities with the intention of promoting a society without gender and class inequalities. As activists we wish to create families without

²³⁹ Objetivos y Propuestas de la Federación Argentina de Lesbianas Gay Bisexuales y Trans (FALGBT).

²⁴⁰ Ibid.

²⁴¹ Ibid.

²⁴² Rachid, María. Translation is my own.

²⁴³ Lesmadres. 3 June 2010. <<http://www.lesmadres.com.ar/>>.

²⁴⁴ Bacin, Gabriela. Translation is my own.

²⁴⁵ Ibid.

²⁴⁶ Lesmadres. Translation is my own.

authoritarianism or violence from a leftist conception that allows us to imagine a utopia close to constructing a world in liberty.”²⁴⁷

El Centro de Estudios Técnicos y Jurídicos GLBT (CETJU.GLBT), or the Center of LGBT Technical and Juridical Studies, is “a socio juridical tool, constituted as a juridical center” which promotes juridical actions to resolve controversial problems.”²⁴⁸

Their general objective is “to offer integral legal and technical consultancy in an exclusive, rigorous, and engaged manner in the defense, circulation, promotion, and access of the rights and obligations [of] people and businesses that conform the so-called [GLBT] space.”²⁴⁹ Emiliano Litardo, a member of the CETJU team, said that “the philosophy of the Center is to generate a space of debate and reflection in judicial and social terms of [sex/gender differences].”²⁵⁰ The Center assembles “judicial demand from a perspective of trying to generate juridical activism, trying to break with the logics of the Argentina judicial system.”²⁵¹ The organization functions in a horizontal manner (without hierarchy), and “in a united form with all the organizations,” such as CHA.²⁵² The Center works on a daily basis “with little cases, and there is no media interest in all that. Therefore, our philosophy is to activate judicially and begin to destabilize the judicial system in a new way or different judicial practice, from how to approach a demand, which arguments to use, to see which strategies to use: it’s another point of view.”²⁵³

²⁴⁷ Ibid.

²⁴⁸ “¿Qué es el CETJU.GLBT?”. ¿Quiénes somos?. CETJU.GLBT. 17 December 2010. <<http://www.cetju-glb.com.ar/cetju.php>>. Translation is my own.

²⁴⁹ “Objetivo General”. Nuestros objetivos. CETJU.GLBT. 17 December 2010. <<http://www.cetju-glb.com.ar/objetivos.php>>. Translation is my own.

²⁵⁰ Litardo, Emiliano. Translation is my own.

²⁵¹ Ibid.

²⁵² Ibid.

²⁵³ Ibid.

Section 4: The Journey of A Thousand Miles: How Change Happens

A Summary of “Otra condición social”: Todos los derechos para todos, Un estudio de caso de los derechos humanos de minorías sexuales en la Argentina (“Other Status”: All Rights for All, A Case Study of Human Rights of Sexual Minorities in Argentina)

As humans and as citizens of Argentina, the community of sexual minorities have inherent and constitutional rights to equality, but as gays, lesbians, bisexuals, trans, *travestis*, queers and intersex, they are not recognized, respected, or protected equally. The ultimate solution is the achievement of this equality. However, equality for sexual minorities, especially in the international human rights system, remains a distant goal. Referencing Kees Waaldijk, Jack Donnelly provides important pieces of advice for national activists, including that they should not “try too hard to make [their] legal system jump,” rather “be content with it only taking steps.”²⁵⁴ The necessary action for the meantime is to keep the system moving towards that goal, step by step; after all, the journey of a thousand miles begins with one step.

“‘Other Status’: All Rights for All, A Case Study of Human Rights of Sexual Minorities in Argentina,” conducted between May and June, 2010 (after the lower house passed same-sex marriage on May 5, but before the Senate passed it on July 15), found that the common goal of the sexual minorities’ movement in Argentina is nondiscrimination, beyond tolerance, in the form of equal protection. However, members of the local community of sexual minorities and its organizations each have their own ideas of what equality would look like, how it would function, and how best to achieve it. However, there are recurrent themes throughout all of their efforts that establish common values and collective goals. These themes were: the demands of community members, education and support (primarily of activists, but also as a tool to neutralize opponents), judicial instruments and utilization of said instruments, social change, inter-movement work, and auto-determination.

²⁵⁴ Donnelly, Jack. pp. 241.

Each organization defines its own goals and plan of action, for some, this must mean the guarantee of the same rights with the same name, for others, recognition of their families as they wish to form them is most important, as examples found through this study. Each individual interviewed during the course of the study described the ways in which their organization utilizes human rights in their efforts. Interviewees also expressed realities of the day to day life of sexual minorities in Argentina, the consequences of the denial and violation of their human rights, and their step-by-step struggle for equality. The study found that the best battleground for the sexual minorities' rights movement is local and national, though empowered by international networks, as shown by the work of the organizations included in the case study.

The central problem of the gay question in Argentina is that there is not a singular or simple answer. The success of the sexual minorities' rights movement requires that the community: define and carry its demands; offer and learn to share education and support; utilize juridical instruments; work for social change; carry out inter-movement work; self-determine identities and roles; and avoid division and exclusion, especially in cases such as that of Lesmadres, where there are very specific needs that are often ignored. The movement cannot take its next step without preparation, training, unification, and much work done by organizations that support sexual minorities. The movement has taken important steps in the last forty years, but is still growing along with the international sexual minorities' rights movement. There remains much to be accomplished, and there is much in the way of achieving these goals.

The Argentine LGBT Federation seems to believe that the legalization of same-sex marriage was the necessary first step to achieving nondiscrimination. Douglass Sanders, however, argues that the next logical step "[a]fter decriminalization and the prohibition of discrimination against individual lesbian women and gay men, [...] is the recognition of lesbian

and gay relationships for the purposes of laws or arrangements which recognize heterosexual marriage or cohabitation.”²⁵⁵ Argentina lacks national nondiscrimination laws. The only national legislation that exists is Law 26:626. Marcelo Ferreyra, situated between the Federation and Sanders in his argument, said that national laws are necessary, and the same-sex marriage law, as the first national law about sexual minorities, could open the door to more national laws. In the Argentine case, a certain level of nondiscrimination existed to arrive at the legalization of same-sex marriage, though not explicitly legislated at the national level. In this case, the argument was that it was implicitly argued by the human rights agenda and the treaties incorporated into the Constitution in 1994. Therefore, from this point moving forward, the foundation of Argentina’s quest for equality begins with the equal recognition and rights of marriage.

Even in early June, The Federation was certain that the same-sex law would pass, and was thus already planning ahead for the next goal. The FALGBT planned “to work strongly with the law of gender identity and the law of sanitary attention for trans people;” however, this goal requires more education of society, because these laws are on a next level from same-sex marriage and not as easily understood by the average citizen.²⁵⁶ The Federation is working on the issue of the gender identity law “because people know what a marriage between people of the same sex is, but they don’t know to what we’re referring with gender identity. We still lack much in informing society and the legislators about this issue, and therefore, we decided to take a bit more time for the gender identity law.”²⁵⁷ Therefore, at the time of the study, the next steps for the Federation were first, same-sex marriage, and then the gender identity law; however, progress is not so simple. As explained in Chapter II, a long history including several important

²⁵⁵ Sanders, Douglas. pp. 72.

²⁵⁶ Rachid, María. Translation is my own.

²⁵⁷ Rachid, María. Translation is my own.

events led to the point in time when people knew what same-sex marriage was. Chapter III further examined the Argentine context with a close look at its culture and society in regard to sexual minorities. Finally, as presented in this chapter, the movement pushed for change in society and politics, encouraging a law that ultimately passed in both houses of government. History is still being written as the movement moves towards the next goals, and continued efforts will be necessary.

Even with the same-sex marriage law, discrimination and other obstacles still exist for sexual minorities. The law itself does not immediately create protections of all rights of sexual minorities. For example, the demands of Lesmadres lack equal recognition even with the same-sex marriage law, such as the right to self-determine the family and the rights of their children. Therefore, Gabriela Bacin said of Lesmadres, “we don’t have coordination with the Federation in part because our demands aren’t oriented towards marriage. Yes, clearly it’s something that will influence us,²⁵⁸ and we’ll probably use it a lot, [but] we are very specific that our demand is in the relationship with our children. Marriage is [...] the relationship with the partner.”²⁵⁹ Therefore, while the Federation has planned steps that will benefit the community, their goals are not the most important to all members of the community. Therefore, some division exists within the movement, though the common goal remains nondiscrimination, as equality means different things and is attached to varying priorities for the various members of the community. Ultimately, however, each achievement moves the system closer toward complete nondiscrimination for all sexual minorities, even if only some reap immediate and direct benefits.

²⁵⁸ Gabriela married her partner shortly after the law passed.

²⁵⁹ Bacin, Gabriela. Translation is my own.

In addition to Kees Waaldijk's recommendation to "keep the system walking," Donnelly also advises national activists to, first: "Look at the experiences in other foreign countries to find out what these steps normally are, and what their standard sequence is;" and second: Look at the experiences in other foreign countries to find out where, at this moment in time, political pressure for legal reform can be most effectively applied."²⁶⁰ In order to fully understand, learn from, and even duplicate the practices of other activists elsewhere, it is most helpful to network with said activists, even coming together to strategize. These international networks have become central elements of the achievements of sexual minorities around the world, especially in Argentina.

Section 5: International Networks and Their Role in Local Movements

The international component of the Argentine sexual minorities' rights movement is an important element of its strength and ultimate successes. Local organizations form local movements. Relationships between organizations and movements inform one another, providing insight which can improve strategy as actors (activists and advocates) learn from one another. These local actors also interact with their own states and other states through international organizations and other bodies; "many nonstate actors that interact with each other, with states, and international organizations," and "[t]hese interactions are structured in terms of networks, and transnational networks are increasingly visible in international politics."²⁶¹ Most relevant to this project and to the sexual minorities' movement at large are "networks of activists, distinguishable largely by the centrality of the principled ideas or values in motivating their formation," which Margaret E. Keck and Kathryn Sikkink call "transnational advocacy

²⁶⁰ Donnelly, Jack. pp. 241.

²⁶¹ Keck, Margaret E. and Kathryn Sikkink. pp. 1.

networks.”²⁶² Such networks empowered other local human rights efforts, including the Madres de la Plaza de Mayo, who benefitted greatly from international connections and support from abroad.

These networks are important at home and abroad because they build connections “among actors in civil societies, states, and international organizations,” thereby “multiply[ing] the channels of access to the international system.”²⁶³ Furthermore, international and domestic NGOs, such as IGLHRC and Amnesty International, “play a central role in all advocacy networks, usually initiating actions and pressuring more powerful actors to take positions. NGOs introduce new ideas, provide information, and lobby for policy changes.”²⁶⁴ Human rights NGOs such as IGLHRC and Amnesty International “push for more liberalism in the form of human rights protection in international relations.”²⁶⁵ Advocacy networks that work in areas such as human rights, as IGLHRC does, “also make international resources available to new actors in domestic political and social struggles.”²⁶⁶ Such resources empower local organizations and actors efforts to “persuade public authorities to adopt new human rights standards or apply those already adopted.”²⁶⁷ In Argentina, this is seen especially in the efforts of the International Gay and Lesbian Human Rights Commission and its activist institutes. As Keck and Sikkink describe of some NGOs, IGLHRC “provide[s] services such as training for other NGOs in the same and sometimes other advocacy networks.”²⁶⁸ IGLHRC’s institutes bring local activists from several countries together to connect them for the purpose of networking, to strategize

²⁶² Ibid.

²⁶³ Ibid.

²⁶⁴ Ibid., pp. 9.

²⁶⁵ Forsythe, David P. pp. 188.

²⁶⁶ Keck, Margaret E. and Kathryn Sikkink. pp. 1.

²⁶⁷ Forsythe, David P. pp. 194.

²⁶⁸ Keck, Margaret E. and Kathryn Sikkink. pp. 9.

collectively, informing one another, and to train them in how to best access the various resources available to them, especially international bodies such as the United Nations.

The networks they form are “communicative structures” in which “activists may engage and become part of larger policy communities that group actors working on an issue from a variety of institutional and value perspectives.”²⁶⁹ For example, one of IGLHRC’s latest institutes, “Strategies to Address Religious Fundamentalisms,” held in April 2010 in Lima, Peru, brought together religious and nonreligious people from various backgrounds and addressed various related topics, including a review of how the Afro-descendent movement had addressed religious fundamentalist’s attack on traditional African religions.²⁷⁰ In this way activists had the opportunity to learn from one another despite different backgrounds; confronted by the same oppressive force, the efforts of sexual minorities and the efforts of Afro-descendents can be informed by one another by sharing experiences and strategizing collectively. As this example shows, in addition to “forms of organization characterized by voluntary, reciprocal, and horizontal patterns of communication exchange,” “[t]ransnational advocacy networks must also be understood as political spaces, in which differently situated actors negotiate—formally or informally—the social, cultural, and political meanings of their joint enterprise.”²⁷¹ These multiple meanings of their collective action further the applicability of their efforts; by diversifying the points of view that inform the values and actions, networks gain additional allies through shared interests.

²⁶⁹ Ibid., p. 3.

²⁷⁰ “Estrategias Frente a los Fundamentalismos Religiosos: 26 de abril”. 26 April 2010. IGLHRC Blog. 24 April 2011. <<http://iglhrc.wordpress.com/2010/04/26/estrategias-frente-a-los-fundamentalismos-religiosos-26-de-abril/>>.

²⁷¹ Keck, Margaret E. and Kathryn Sikkink. pp. 3, 8.

In the Argentine case, “[t]he international human rights network worked intensively, [...] contributing to improved practices by the early 1980s.”²⁷² However:

“Even before the military coup of March 1976, international human rights pressures had influenced the Argentine military’s decision to cause political opponents to ‘disappear,’ rather than imprisoning them or executing them publically. [...] Hoping to maintain a moderate international image, the Argentine military decided to secretly kidnap, detain, and execute its victims, while denying any knowledge of their whereabouts.”²⁷³

While disappearing “did initially mute the international response to the coup, Amnesty International and groups staffed by Argentine political exiles eventually were able to document and condemn the new forms of repressive practices.”²⁷⁴ NGOs and activists played an essential role by demanding that these violations of human rights be recognized as such and stopped. The Argentine military attempted to counter such actions by inviting Amnesty International (AI) “for an on-site visit in 1976,” however, this backfired when, on March 24, 1977, “AI published the report on its visit, a well-documented denunciation of the abuses of the regime with emphasis on the problem of the disappeared. [...] Amnesty International’s denunciations of the Argentine regime were legitimized when it won the Nobel Peace Prize later that year.”²⁷⁵ Argentine writer Rodolfo Walsh “disappeared after he penned the text, ‘Open Letter to the Military Junta’ published on [...] the first anniversary of the coup,” the same day AI’s report was published.²⁷⁶ As Walsh’s case exemplifies, “the truth about human rights abuses there probably would have remained hidden without the detailed documentation and diffusion of information by the international network.”²⁷⁷ Without outside activists and transnational networks, it is unlikely that

²⁷² Ibid., pp. 80.

²⁷³ Ibid., pp. 103-104.

²⁷⁴ Ibid., pp. 104.

²⁷⁵ Ibid.

²⁷⁶ Trigona, Marie. “Argentina Revisits Dictatorship: A Year of Human Rights Trials.” 1 April 2010. *Toward Freedom*. 18 April 2011.

²⁷⁷ Keck, Margaret E. and Kathryn Sikkink. pp. 116-117.

such documentation would have existed as early as it did, given that local actors who spoke out often paid the ultimate price.

In addition to bringing human rights violations to the international stage, activists, organizations, and networks develop the relationships with states and governments that are essential to bringing about change. As early as 1977, “Argentine domestic human rights organizations began to develop significant external contacts.”²⁷⁸ These relationships led to international awareness, which cultivated pressure on the military to stop violating human rights. Following the dictatorship, respect and protection of human rights became a common demand from diverse groups, and the international human rights treaties were eventually integrated into the Argentine constitution.

However, there are other cases, such as Mexico during the same time, where the international human rights network did not have the success it had in Argentina. Therefore, “[t]he central question becomes, under what conditions can the international human rights network be effective?”²⁷⁹ Keck and Sikkink argue: “The vulnerability of the target state is thus a key factor in network effectiveness.”²⁸⁰ So what made Argentina “vulnerable”?

Argentina was “vulnerable” to international and internal pressure. This international pressure grew out of local activists and organizations, international organizations, and their networks efforts to expose the rights violations and demand a response. This initial pressure came from a social movement. To revisit Tarrow, there was a “[sequence] of contentious politics that [were] based on underlying social networks and resonant collective action frames, and which develop[ed] the capacity to maintain sustained challenges against powerful

²⁷⁸ Ibid., pp. 105.

²⁷⁹ Ibid., pp. 116.

²⁸⁰ Ibid., pp. 117.

opponents.²⁸¹ The military was indeed a very powerful opponent; it successfully disappeared many of those who defied or challenged it. In this case of the military dictatorship and the disappeared, the violations were fairly clear: kidnapping, torturing, murdering, and disappearing people is a violation of fundamental human rights. The disappearances violated the right to life, to right to not be tortured, the right to not be arbitrarily arrested and detained, the right to a free trial, the right to innocence until guilt is proven, and so on.²⁸² In the case of sexual minorities, however, there is no international agreement.

Torture is wrong: that is an international norm (though definitions of “torture” vary).

According to Lynn Hunt, this became an international norm:

“because the traditional framework of pain and personhood fell apart, to be replaced, bit by bit, by a new framework, in which individuals owned their bodies, had rights to their separateness and to bodily inviolability, and recognized in other people the same passions, sentiments, and sympathies as in themselves.”²⁸³

There is no such consensus on the rights of sexual minorities. However, similar rights arguments can and have been applied regarding sexual minorities rights. The right to do as one pleases with ones’ own body and to form relationships based on personal desire resonate to the rest of society. The necessary process requires a change in the framing of sexual minorities, to one that is first tolerant, then accepting, then, bit by bit, more and more equal. People can sympathize with victims of torture and are vulnerable to their claims, knowing they themselves would not want to be tortured, even believing that torture is so wrong that no human should have to endure it (as is stipulated in international human rights treaties). Therefore, in the case of sexual minorities, the central question becomes: What made Argentina vulnerable to the claims of sexual minorities, articulated and pushed by their movement? The remainder of this project examines the particular

²⁸¹ Tarrow, Sidney. *Power in Movement*. pp. 2.

²⁸² *The Universal Declaration of Human Rights*. 10 December 1948. United Nations. 18 December 2010. <<http://www.un.org/en/documents/udhr/index.shtml>>.

²⁸³ Hunt, Lynn. pp. 112.

“vulnerabilities” that made the recognition of the equal human rights of sexual minorities possible through the legalization of same-sex marriage.

The Particular Role of Gay Networks

Organizations and movements within Argentina inform one another, and organizations and movements network internationally as well. As was mentioned earlier, the word “gay” itself exported from English to Spanish. Likewise, strategies were also imported and exported between countries and then local actors. This is exemplified in the previous example regarding IGLHRC’s activist institutes. In addition to activism, however, international gay networks provide other elements of a successful movement as well, including identity, language, and theory.

First, individual identity is essential to the formation of a collective identity. Organizations and activists in the United States and other countries began organizing around “gay and lesbian,” then added “bisexual,” then “trans,” and eventually “queer,” “questioning,” “intersex,” and “allies.” The collective identity of sexual minorities has evolved and is still complicated. It is also largely imposed by society upon sexual minorities, which becomes those who are the “other,” as opposed to being self-determined. Sexual minorities in Argentina had such examples to learn from (in organizing collective action and gaining power in numbers), as did Argentine society (in grouping more and more people under the “gay” or “other” umbrella).

Second, language is essential to internal and external communication. Many words come from English into Spanish. “Gay,” “bisexual,” “intersex,” “trans,” and “queer” are all directly exported, as is “gender,” which is imported into Spanish as *género*. The concept of gender, also further explored in Part III, is new in English, therefore even newer in Spanish. Consequently,

the same is true of the field of Gender Studies. Thus, international networking plays an essential role in equipping Argentine sexual minorities with the language to describe themselves and their movement, as well as the theory that examines those identities and behaviors.

The field of Gender Studies is novel; the title itself is still difficult to translate into Spanish in a way that truly conveys its purpose. Gender theory is important to understanding, discussing, and liberating sexual minorities throughout the world. Therefore, the translation and exportation of gender theory can prove particularly useful to sexual minorities. Judith Butler, for example, who authored *Gender Trouble*, arguably the most prominent work in the field of Gender Studies, presents theories on gender that translate to Argentine society, as shown in Chapter III. Gender Studies examines not only gender, but also explores intersections with other themes such as power and discourse. In the Argentine case, one can apply gender theory to local sexual minorities to examine society, culture, and revolution. Gender theory can serve sexual minorities themselves with empowering knowledge and understanding which informs and strengthens their efforts in various venues. Local community members and organizations can use it to explore themes of collective and individual identity, discourse, and power, including how to challenge and change the constraints of existing systems such as *machismo*.

Section 6: Conclusion

A successful social movement was necessary to achieve the legalization of same-sex marriage in Argentina. While historical events created pathways through which the norms of Argentine society and culture were challenged and shaped by sexual minorities and other actors such as the Madres de la Plaza de Mayo, the gay rights movement was the cornerstone of the marriage equality effort. If sexual minorities had remained hidden and silent, it is unlikely that

their rights would have ever come to the forefront. Gay men, lesbian women, and other sexual minorities made their private sexual and gender identities public to make a statement, to organize, to demand change and ultimately achieve it. A strong social movement is not enough, however, to achieve change in Argentina. First, historical pathways empowered sexual minorities and their efforts. Second, Argentine cultural and societal contexts both shaped and were shaped by sexual minorities. The success of the rights' movement depended on these sets of circumstances. Finally, the contextualization of sexual minorities' rights within the discourse and framework of human rights provided their claims familiarity and legitimacy. This application of human rights will be examined in the next chapter.

***Chapter V: Todos para todos, All or Nothing: Utilizing Human Rights
to Include the Excluded***

The utilization of existing human rights theory, discourse, and practice was essential to sexual minorities' success in national legalization of same-sex marriage. Local organizations such as the Argentine LGBT Federation (FALGBT), Lesmadres, the Argentine Homosexual Community (CHA), the Center of GLBT Technical and Juridical Studies (CETJU.GLBT), and the Buenos Aires office of the International Gay and Lesbian Human Rights Commission (IGLHRC) work with human rights in their missions and language. The argument is simple enough: all humans deserve human rights, but sexual minorities are denied their rights. However, "in their single-minded pursuit of the issue of human rights, and with concern with moral consistency, [human rights NGOs] may come across to public officials as moralistic, rigid, and politically naïve."²⁸⁴ On the other hand, "many movements that seemed moralistic and utopian at the outset achieved changed policies and situations over time. [...] What was utopian became practical."²⁸⁵ Such has been the case with Argentina; a relentless movement made the once impossible possible. As a result of the legalization of same-sex marriage, Argentina has made significant progress toward a non-discriminating and equal state and society.

To be human rights, rights must possess three qualities: "rights must be natural (inherent in human beings); equal (the same for everyone); and universal (applicable everywhere)."²⁸⁶ Therefore, the rights of sexual minorities are a matter important to the minority (minoritizing view), while also a matter of great importance to everyone else. Particularly in Argentina, where there is great political concern for maintaining a stance on upholding human rights, particularly

²⁸⁴ Forsythe, David P. pp. 195.

²⁸⁵ Ibid., pp. 195.

²⁸⁶ Hunt, Lynn. pp. 20.

among the Left, to deny some people rights threatens the rights of all (universalizing view). The denial of human rights to sexual minorities in Argentina threatens the whole of the republic with losing the freedoms and protections afforded to its population through human rights. Therefore, it is important that Argentina maintain its protection of human rights by ensuring that all people have access to their human rights.

The legalization of same-sex marriage was an advance of sexual minorities' human rights in Argentina though some benefits are not immediate. Groups like Lesmadres still await legal recognition of the relationship between them as parents to their children; however, this law is a step forward. Previously excluded from the rights, privileges, and benefits of marriage, same-sex couples are now included. This equates their relationships to those of heterosexual couples under the law, which is the first step to nondiscrimination. Furthermore, this step forward for sexual minorities is also an advance of human rights in general. As previously argued, denial of human rights of sexual minorities threatens human rights for everyone else. While questioning the institution of marriage, Rosa Posa nonetheless considers that, given the current context, the legalization of same-sex marriage is a human rights victory:

“Since we live in this world and not another, I think that [the legalization of same-sex marriage in Argentina] is an advance for Human Rights. I’m sure that it will solve the problems of many people, not only on the question of property and inheritance, but also on the custody of sons and daughters, insurance coverage, and legal residence for spouses of other nationalities. When we talk about human rights we are talking about state responsibilities. To acknowledge partnerships is one of those responsibilities, and for now, it is the way the state can fulfill its role.”²⁸⁷

It is the state's responsibility to acknowledge same-sex partnerships equally. However, only ten states worldwide fulfill this responsibility, therefore, it is hardly an explicit requirement of any nation. In the Argentine case, the legalization of same-sex marriage became a human rights struggle. Brown argues that it is necessary to link the sexual minorities' movement to the human

²⁸⁷ Posa Guinea, Rosa M. “Same-Sex Marriage in Argentina – A Reflection on the Institution of Marriage.” 22 July 2010. IGLHRC Blog. 15 February 2011. <<http://iglhrc.wordpress.com/2010/07/22/same-sex-marriage-in-argentina-a-reflection-on-the-institution-of-marriage/>>.

rights discourse as well as democratization and the international dimension.²⁸⁸ However, how can same-sex marriage specifically be linked? How is same-sex marriage an important step in the non-discrimination of sexual minorities? How can these links strengthen the efforts of sexual minorities to achieve non-discrimination and equality? Furthermore, how does recognizing the rights of sexual minorities improve everyone's human rights? This section explores these questions through various theories of non-discrimination, how to achieve it, and challenges against it. Additionally, social inclusion of the excluded is examined in addition to the legal addition of same-sex couples into existing marriage laws.

Section 1: Nondiscrimination and Equality

Jack Donnelly distinguishes three interpretations of nondiscrimination: tolerance, equal protection, and multiculturalism.²⁸⁹ Tolerance is twofold, and comes at the social and political level. At the social level, tolerance involves sexual minorities being free from harassment, safe to go about their daily lives without being insulted or harmed. At the political level, tolerance is most explicit in non- or decriminalization. Legal tolerance is a bare protection of sexual minorities' rights to life and freedom from imprisonment. Equal protection is a further step at the political level. Equal protection provides for true nondiscrimination at multiple levels, securing, for example, the rights of gays to marry, to own property, and to not be fired for their sexual orientation. Multiculturalism again requires society to play an important role: the law and society must not only tolerate sexual minorities, or simply offer them rights, but embrace them as a part of the culture. Often, though not always, these three forms of nondiscrimination happen in a process, building and leading into one another.

²⁸⁸ Brown, Stephen. pp. 126.

²⁸⁹ Donnelly, Jack. pp. 206.

In Argentina, tolerance was present in the form of the non-criminalization of homosexuality and homosociality. Furthermore, homosociality was culturally accepted as a part of the *machismo* identity, as described in Chapter III. Equal protection was achieved at the local level throughout Argentina before the national marriage law passed. Buenos Aires and other provinces passed their own laws legalizing civil unions. Law 26:628 was the first explicit national equal protection legislation. Much support for the bill came from the belief that equality was implicit in Argentina's Constitution and human rights discourse, and to deny sexual minorities their equality went against the State and its mission.

Achieving Nondiscrimination of Sexual Minorities

Donnelly presents three strategies for the inclusion of sexual minorities in international protections against discrimination: first, a path of gradual change; second, national mechanisms of incorporation; third, the incorporation of sexual minorities in international human rights laws.²⁹⁰ The local sexual minorities' rights movement in Argentina took that path of gradual change, as described in Chapter III, ultimately achieving the first national mechanism of incorporation, the legalization of same-sex marriage. The incorporation of sexual minorities into international human rights law is a step beyond Argentina, but its actions can certainly stand as a strong case to the international community regarding the human rights of sexual minorities. This incorporation is especially challenging given that "[t]he International Human Rights Covenants are largely fixed in standards that reflect attitudes of the early 1950s and early 1960s, when no country had a substantial gay rights movement."²⁹¹ Therefore, sexual minorities cannot depend on the international system and must strive to achieve non-discrimination through

²⁹⁰ Ibid., pp. 238-241.

²⁹¹ Ibid., pp. 238.

national legislation. As such an accomplishment cannot be reached overnight, local activists must aim to achieve change step by step over time.

Ernesto Meccia, an Argentine sociologist, develops this conjecture: “Gay organizations have achieved the politicization of homosexuality. Likewise, designated in large part by means of a language of human rights, [these organizations] incrementally achieve forming part of the political agenda, questioning and transcending traditional politics of tolerance issued by the State.”²⁹² Countering what Sedgwick describes as the minoritizing view, these organizations made the rights of sexual minorities the concerns of everyone. Argentine deputy Eduardo Varela Cid once said: “Why does it have to be society’s problem? It’s your particular problem.”²⁹³ In the mid-1980s, “homosexuality as an object of public politics was considered in its entirety by the Catholic Church and in large part by the political class as a “false problem.”²⁹⁴ With the return of democracy and the rebirth of the sexual minorities’ rights movement, local organizations recommenced their efforts. Gradually, out of historical pathways embraced by Argentine culture and society, sexual minorities worked to achieve equal recognition and protection of their human rights. Only two and a half decades later, their work resulted in national legalization of same-sex marriage, an achievement reached by only nine other States to date.

²⁹² Meccia, Ernesto. pp. 53. Translation is my own.

²⁹³ Ibid., pp. 61. Translation is my own.

²⁹⁴ Ibid.

Excluded from the Benefits of the Same-Sex Marriage Law?

It is important to note that sexual minorities lack recognition of many rights; indeed, the focus on legalizing same-sex marriage in effect made these other demands far less visible, even invisible.²⁹⁵ For example, Gabriela Bacin said:

“the trans collective, which is the collective at which crosses more inequalities, where not only do you have questions of discrimination based in gender orientation, but also the trans women are more poor, those that receive the less education, that have an important crossing with class, and they have a lot of demands for the right to work, for the right to an identity, and very basic demands to a life free of violence, the right to education, super basic demands, that maybe remain a little [invisible] or don’t have the importance that they should have.”²⁹⁶

The marriage law did not directly or immediately help some sexual minorities. In fact, Lesmadres, an organization with which Bacin works, does not have demands oriented towards marriage; “Yes, clearly it’s something that influences us and many [of us] will probably utilize it, [but] we are very specific in that our claim is in the relationship with our children. Marriage is, really, the relationship with the partner.”²⁹⁷ The women of Lesmadres seek recognition of rights between mother(s) and child; it is not even necessary for a woman to be married for the relationship between her and her child to be recognized, said Bacin. She added that “in fact, a man goes and recognizes his son directly without the necessity of being married and with the necessity of being the biological father of the boy, because no one asks for proof that [he is] the biological father.”²⁹⁸ Rights such as these, the right to an identity, to work, to a life free from violence, and to be recognized as a child’s mother, may not be immediately served by a law recognizing same-sex partnerships as equal to heterosexual marriages. However, the opportunity created by such a foundation is important to making the changes necessary to arrive at the acknowledgement and addressing of these demands.

²⁹⁵ Bacin, Gabriela. Translation is my own.

²⁹⁶ Ibid.

²⁹⁷ Ibid.

²⁹⁸ Ibid.

National legislation works from the top down, even though it may first be developed from the bottom up. The local social movement built up to the marriage law and achieved it; now the equality it establishes can trickle down through the many levels of Argentine government and society. Once gay marriage is approved and accepted, it is that much easier to take the next step towards recognizing the rights of, for example, a transwoman or a lesbian mother. Thus, even if the benefit is not immediate, the total impact is broad and lasting. On one hand, same-sex marriage is an assimilation of homosexuality into heteronormativity; there are certainly those that hold this belief. On the other hand, however, this legislation will hopefully be the first of many in a chain of nondiscrimination laws that do include those sexual minorities who may not directly gain from the legalization of same-sex marriage, as they will gain from the opportunities ultimately created from the foundation built by this law. Overcoming this obstacle and achieving legal recognition of the equality of same-sex couples weakens future obstacles by reducing stigma and setting a precedent of extending equality to sexual minorities.

Overcoming Obstacles that Hinder the Inclusion of Sexual Minorities

Sexual minorities in Argentina had many obstacles to overcome to achieve the legalization of same-sex marriage. In addition to obstacles such as religious opposition, this section explores three obstacles that hinder the inclusion of sexual minorities as identified by Douglass Sanders: “(1) continuing stigma; (2) poor organization; and (3) the understanding that many states will block initiatives in this area.”²⁹⁹ These three obstacles certainly apply and still apply to the Argentine case. Law 26:628 did not eradicate all discrimination against same-sex couples, let alone sexual minorities in general, thus stigma continues, though it has lessened significantly. While the sexual minorities’ rights movement has networked and acted effectively,

²⁹⁹ Sanders, Douglas. pp. 68.

it is not completely unified. As the Lesmadres case shows, the goals of the movement that make it to the government's desk are not necessarily representative of the priorities of all members of the community. Finally, while the current government officials and State leaders compose a supportive majority, not all Deputies and Senators supported the bill, and there will likely be opponents of gay rights in government seats for years to come. Nonetheless, Argentina was able to overcome these obstacles enough to achieve same-sex marriage at a national level.

In most other countries, unlike the Argentine case, sexual minorities have not been able to achieve such victories. In the United States, for example, “[g]ay rights failed at the federal level for a simple reason: the perceived meaning of the group.”³⁰⁰ While “Americans perceive them as analogous to [B]lacks in terms of their being targets of discrimination and suffering unequal opportunity, [...] [g]ays and lesbians are unique in a way that puts them at a disadvantage relative to other [minority] groups.”³⁰¹ Indeed, “many Americans and leaders in government saw gays as immoral or ill, sometimes both;” “Gays therefore did not find strong advocates in the government, as did other groups, and the logic of client politics or anticipatory politics never extended to them. Any politician promoting gay rights risked their place in office in a way that advocacy for other groups did not, and strong advocacy of gay rights was and remains inappropriate in national politics.”³⁰² Despite a rights movement, gay rights legislation has failed since it was first brought to a vote in 1974.³⁰³ Even while other minority groups gained rights, gays and lesbians did not, because government officials “saw gays as violating the

³⁰⁰ Skrentny, John D. *The Minority Rights Revolution*. Cambridge: Harvard University Press, 2004. p. 314.

³⁰¹ *Ibid.*, pp. 315.

³⁰² *Ibid.*

³⁰³ *Ibid.*, pp. 321.

nation's morality, and unworthy of federal protection."³⁰⁴ Today, national legislation regarding the rights of sexual minorities is sparse and limited to laws regarding hate crimes.

Argentina overcame stigma, had a sufficiently organized movement, and received State support that resulted in the passing of national legislation. The 1853 constitution opened an early pathway for a lessened stigma as well as State-sanctioned support for gay rights, allowing what happened in men's homes to remain private. A century later, the gay rights movement began to wear existing stigma even thinner as it worked to achieve nondiscrimination. After the military dictatorship, sexual minorities had a place as minorities in Argentina, unlike in the United States. While not completely embraced in the form of multiculturalism, Argentine culture has accepted "deviations" from the "norm" more readily than the United States. With 70% public support of the bill, legislators represented the people, including the majority and the minority.

Section 2: All Rights for All, A Framework Built and Strengthened

Human rights, in theory, include the majority as well as the minority. A central element of the legacy of the recent history of Argentina, as outlined in Chapter I, especially the military dictatorship, has been a strong commitment to human rights. However, support from the majority for the rights of sexual minorities was not immediate. Lynn Hunt argues that human rights only flourish "when people learned to think of others as their equals, as like them in some fundamental fashion."³⁰⁵ Additionally, "[e]mpathy depends on identification."³⁰⁶ In the case of Argentina, all citizens not connected to the military suffered to some degree under the dictatorship. Even those who did not lose a son, daughter, brother, sister, or other family member could empathize. Having all suffered some oppression, a collective understanding was

³⁰⁴ Ibid., pp. 327.

³⁰⁵ Hunt, Lynn. pp. 58.

³⁰⁶ Ibid., pp. 55.

achieved among the Argentine people, becoming part of the national identity; “construction of collective identities is crucial for any society as it effects [...] the boundaries of inclusion and exclusion.”³⁰⁷ Thus, for the majority, respecting human rights became part of what it meant to be “Argentine,” so has the inclusion of all people in the protections and freedoms afforded by those rights become part of the predominant national identity.³⁰⁸

Out of its downfalls, Argentina had to rebuild, in the process reconsidering, reaffirming, and adjusting the national Argentine identity. According to Roniger and Sznajder:

“Whenever a society undergoes a serious process of reconstitution, its impact is projected onto the reformulation of its basic tenets of self-definition and collective identity, with effects on the construction of membership, the patterns of inclusion and exclusion, and the shaping of entitlements.”³⁰⁹

Human rights became one of those basic tenets following the military dictatorship of 1976-1983. A valuing of all Argentines and their rights as citizens and as human beings became part of the Argentine identity. Citizenship took on a new meaning, especially when the human rights treaties were incorporated into the Constitution in 1994. By 2010, same-sex marriage was voted on, due in large part to the efforts of organizations and activists working explicitly within the framework of human rights, appealing to the Constitution and the treaties that complemented the rights it provided and stood above it hierarchically.

Section 3: Laying Down the Law, The Necessary Role of Legislation

Does law change society or does society change law? In the case of Argentina’s legalization of same-sex marriage, both occur. On one hand, the local sexual minorities’ rights movement aided in shifting public opinion over time, slowly demanding inclusion in the rights provided by the constitution. On the other, this law is not only reactionary; it will also aid future

³⁰⁷ Roniger, Luis and Mario Sznajder. pp. 227.

³⁰⁸ Granted, there was still a minority connected to the military and its mission at this time.

³⁰⁹ Ibid.

efforts. This law serves as the foundation of the non-discrimination (beyond tolerance in the form of non-criminalization) of sexual minorities in Argentina. Once the government has nationally recognized same-sex couples as equal to heterosexual couples, the door is opened to both social and political change and advancement. This law is an important tool for all of Argentina's sexual minorities to utilize from this point forward.

Law 26.618 not only modified the Civil Code of Argentina to provide equal rights and legal recognition of marriage to same-sex couples, as well as adoption and inheritance rights; it also served as national acceptance of an "other" previously excluded from the full rights of citizenship. Michel Foucault argues that the law, by which he means not just legislation, but the expanse of that which forms ideology and discourse of any kind, cyclically prohibits "other"ness, "affirming that such a thing is not permitted, preventing it from being said, denying that it exists."³¹⁰ Sexual difference is produced by power; power itself is disbursed and multiple, occurring at all levels. Power is deeply entrenched, given that "[o]ne of the most fundamental processes of identity formation is that of achieving a sense of stability and security in our personal modes of being a male or female."³¹¹ As important as gender roles are to the sex/gender system, so is power to sexual difference.

Power has been assigned to some and denied to others. Sexual minorities are among those systematically denied power and considered the "other" to the heterosexual norm. According to Foucault, the relationship of "[p]ower over sex is exercised the same way at all levels [...]; it operates according to the simple and endlessly reproduced mechanisms of law, taboo, and censorship [...] varying in scale alone."³¹² Thus, power is everywhere, and "acts by laying down the rule: power's hold on sex is maintained through language, or rather through the

³¹⁰ Foucault, Michel. *The History of Sexuality*. Vol. 1. New York: Random House, 1978. pp. 84.

³¹¹ Fischman, Gustavo E. pp. 21.

³¹² Foucault, Michel. pp. 84-85.

act of discourse that creates, from the very fact that it is articulated, a rule of law.”³¹³ The “rule of law” in Argentina was one that excluded sexual minorities, and indeed, they still suffer much discrimination at all levels, including the national, despite the legalization of same-sex marriage. Law (in the more narrow, legislative sense of the word) 26.618, permits the “otherness” of same-sex partnerships by extending marriage rights to them, thereby including the previously excluded.

Foucault argues that “[t]he pure form of power resides in the function of the legislator; and its mode of action with regard to sex is of a juridico-discursive character.”³¹⁴ According to Foucault, law is negatively related to power, the effects of which “take the general form of limit and lack,” rejecting, excluding, refusing, blocking, concealing, and masking.³¹⁵ However, in this case, the relation of law to power is a positive one; this law grants power to sexual minorities, accepting, including, embracing, and publicizing support. Furthermore, arguments made, including that of President Cristina Fernández de Kirchner, take on Sedgwick’s universalizing view, considering the rights of the minority to be the concern of the majority. Kirchner considered the legalization of same-sex marriage a responsibility of a functioning democracy in Argentina. Therefore, not only is this law necessary to same-sex couples, but it is also necessary to the maintenance of Argentine democracy.

At a certain point, national legislation becomes necessary to any further progress. Social movements and other social efforts can certainly accomplish much within society, and even have effects on politics. However, without altering legislation, social accomplishments remain limited. Legislation establishes legal precedent. It creates opportunity. It allows for further progress and development. In this particular case, legal recognition of the equality of same-sex

³¹³ Ibid., pp. 83.

³¹⁴ Ibid.

³¹⁵ Ibid.

partnerships establishes the foundation (beyond toleration) of non-discrimination and equality of sexual minorities at a national level. Now, laws such as those regarding transgender rights, for example, have a national foundation. Recognizing same-sex partnerships makes it far easier to then recognize other rights for sexual minorities. Society changed the law, legalizing same-sex marriage. Now the law can stand as the base for change in society, acting as a springboard for future efforts and the recognition of additional rights for same-sex couples and the rights of other sexual minorities.

Section 4: Conclusion

In addition to historical, social, and cultural contexts and a strong social movement, human rights were the final element necessary to the success of efforts to legalize same-sex marriage. As humans and as citizens, Argentine sexual minorities deserved the right to marry. By placing their claims in these terms, their demands for equality were not “gay rights,” rather rights that sexual minorities should have. The next and final chapter concludes these arguments regarding the legalization of same-sex marriage in Argentina. It also examines larger questions such as whether or not same-sex marriage is truly the answer in the quest for nondiscrimination and equality, why “same-sex marriage” is necessary and “civil unions” are not sufficient, and whether “equal” rights truly mean “equality” for sexual minorities. The chapter discusses the importance of same-sex marriage in Argentina and beyond, as well as what can be learned from the Argentine example and applied elsewhere.

Chapter VI: The Courage to Change the Things We Can:

Conclusions and Recommendations

Why did the Argentine government pass a bill altering the Civil Code to legalize same-sex marriage? According to Kathryn Sikkink, states adopt policies “because state officials believe they live in the kind of state that should adopt such policies.”³¹⁶ Granted, state officials differ in their opinions regarding what kind of state they live in and what said state should or should not do; thus, in a democracy, the majority wins. However, a victory of the majority does not necessarily mean a loss of all minorities, as is the case with law 26.618; the majority believed Argentina should legalize same-sex marriage. State officials believed they lived in a state that should not deny rights, rather their democracy was one that would protect its minorities from injustice. Therefore, the House of Deputies and the Senate passed the bill. President Cristina Fernández de Kirchner, a strong advocate of gay rights who spoke out in support of the bill all along, signed it into law with tears of joy in her eyes. Her critics, and even some of her supporters, have believed her position to be tactical and calculated, and even the expression on her face in these moments as a purposeful political act. The same could be said of all supporters of the bill, and even of most politicians in general; their public acts are inherently politicized. Perhaps politicians voted for the legislation because they believed they “should” in order to be reelected, to represent their constituents, to align with the President, to counter the Catholic Church, or per some other agenda that may not have been to give gay people rights. The motivations vary but the result remains the same: their acts resulted in the realization of rights for same-sex couples previously reserved only for different-sex couples, which, while political, is a victory for those who seek justice and equality for sexual minorities.

³¹⁶ Sikkink, Katherine. pp. 7.

July 15 and 22, 2010 were largely considered days of victory in Argentina, not just for sexual minorities, but for the nation as a whole. Argentina became the first country in Latin America to pass such legislation, and only the tenth in the world. Staunch support of human rights and robust human rights policies define Argentina. Explicitly providing access of these rights to sexual minorities adds another level to this rights legacy. By the time Law 26.618 was brought to the legislative table, rights, equality, and democracy were important parts of the Argentine identity; this was a defining moment to put the theories and the discourse into practice and action. State officials had the opportunity to show explicitly what a human rights agenda meant, and to challenge the majority to consider the minorities not always sufficiently represented by sheer numbers in democracy. In this moment, extending rights to those who were previously denied such equality was a statement of the Argentine state's responsibility to its entire citizenship.

How did whether or not same-sex marriage was legalized become a defining moment that would show what the Argentine State was about? Sikkink argues that "identity contributes to a human rights policy when a country's leaders justify the policy in terms of national pride, danger, or some mix of the two."³¹⁷ The human rights legacy in Argentina came largely from the military dictatorship of 1976-1983 and the insistence of *nunca más*, never again. Human rights policies were a way of responding to and protecting the State and its citizens from such horrors. Given that denying rights to any one group endangers the rights of all, upholding all rights for all became paramount. During the military dictatorship, the State's responsibility to protect its citizens was suspended for those citizens that the dictatorship opposed. The rights of those citizens to their own bodies, their rights to freedom, not to be tortured, not to be kidnapped, sequestered, and murdered, were completely ignored; consequently, at least 30,000 were killed,

³¹⁷ Ibid., pp. 8.

and few of their families have even been able to bury their children's and other family member's bodies. When the rights of the Constitution and the rights according to international human rights law were suspended, the results were grave. The relative ease with which these disappearances occurred makes the danger of their repetition very real.

Furthermore, the memory of those lost demands that their deaths not be in vain, but that the nation learn from the past so as to prevent it ever occurring again, especially given that the threat posed is not completely over. Sanctioned violence did not end with the dictatorship; “between 1985 and 1989, more than 400 cases of civilian deaths in police operations were reported for the city of Buenos Aires and the surrounding areas of the province of Buenos Aires alone. Several cases of kidnappings—‘disappearances’—by police personal were noted.”³¹⁸ In 2006, just before he was to testify against the military in court, Jorge Julio López disappeared. López was kidnapped and detained during the military dictatorship. Though released, by the time he was to speak in a trial (after then-President Néstor Kirchner had overturned the Full Stop and Due Obedience laws), he disappeared and has not been seen or heard from since. The memory of the *Proceso* has not faded into the past of Argentina. Trials of military personal and leaders continue. Clandestine centers have been converted into memory centers for people to visit. The march to remember every year on March 24th still shuts down the center of Buenos Aires, filling its streets with people, some carrying photos of the faces of *los desaparecidos*, some still waiting to hear the full truth about their loved ones. The events of 1983-1976 are not distant memories; rather, they exist in the modern reality of Argentina in an attempt to achieve justice and to keep the promise of *nunca más* all the more real.

The connection between *los desaparecidos* and same-sex marriage may not be the most immediate, as truth, justice, and the promise of “never again” do not directly apply to same-sex

³¹⁸ Roniger, Luis and Mario Sznajder. pp. 147.

couples who want to marry in Argentina. The link is perhaps most explicit in the lesser-known support of some of Las Madres de la Plaza de Mayo of same-sex marriage in their recent human rights efforts. If these mothers, who began their work demanding the return of their children (or at least honest news about their whereabouts), grew to expand the rights of gays, certainly the connection can be made. Additionally, sexual minorities were among those who were disappeared by the military during the dictatorship; thus, affording rights to that particular group would add an additional promise and protection of *nunca más*. However, the connection is mostly a general one inherent in the definition of human rights.

Human rights are, by definition, the rights that all humans have simply because they are human. The legacy of the *desaparecidos* and their *Madres* is human rights: Argentina must recognize its people's human rights to prevent such a tragedy from occurring ever again. The leaders of the dictatorship and their supporters believed that some humans were less deserving of these rights, and that it was acceptable to kidnap, torture, and kill people because they did not conform to the mission of the military. Additionally, because the major human rights treaties were incorporated into the Argentine constitution in 1994, human rights are citizens' rights. The theory and practice of human rights rest on the foundation that all humans have human rights. Similarly, for Argentines to have human and citizens' rights, all Argentines must have them. Argentine sexual minorities are no exception; they are humans and citizens. Therefore, passing the bill was a necessity, both due to the danger of denying rights to some (which endangers the rights of all), and in terms of national pride.

The legalization of same-sex marriage is a source of pride for Argentina. Some go so far as to criticize President Cristina Fernández de Kirchner's support of the same-sex marriage bill as a political ploy or a desire to be the first in Latin America to legalize "gay rights" as such;

they argue that it was not that she truly supported gay marriage so strongly, rather it was her desire to make Argentina the first to do something of this magnitude in the region. However, she was not alone. Almost three quarters of the Argentine population agreed with her, as did the majority of Deputies and Senators. This bill was not (just) a matter of President Cristina's pride; it was an opportune matter of Argentine national pride. Supporting the rights of the minority from the oppression of forces in the majority was and remains an important pillar of Argentine democracy. While this pillar may not function at all levels or for all minorities the same way, it did play a significant role in the legalization of same-sex marriage.

Section 1: Is Marriage Really the Answer?

This study considers the legalization of same-sex marriage an important step in achieving the nondiscrimination of sexual minorities. However, is same-sex marriage truly the solution? Following the passing of Law 26.628, same-sex couples received equal marriage rights and legal recognition of their partnership, adoption rights, and inheritance rights. The law did not explicitly outlaw discrimination against same-sex couples, let alone sexual minorities in general. Questioning the institution of marriage as a tool for sexual minorities to have under their belts to use in efforts to gain further rights, Rosa Posa Guinea wrote on July 22, 2010:

“The agenda of the LGBTI movement is varied. While I applaud the achievement of gaining the right to marry, I do not forget about discrimination in employment, abuse in health services, expulsions from the education system, or killings of transvestites, gays, lesbians, bisexuals, and intersex people across the region. [...] There is much work to be done and we are determined to do it – with or without marriage.”³¹⁹

As this study mentioned, the legalization of same-sex marriage was not the most important goal for all sexual minorities. Nonetheless, it became the most visible, and it became the goal achieved at a national level, for better or for worse. It is true that there is much work to be done,

³¹⁹ Posa Guinea, Rosa M.

and that there is much discrimination yet to overcome. That is to be expected; society cannot change law, nor can law change society, overnight. The process is ongoing. Crimes occur despite their illegality throughout the world every day. As crimes like murder have been a part of societies for centuries, it is unclear if it will ever cease to be a part of society. Likewise, it will take time for homosexuality to be seen as an orientation as normal as heterosexuality, given that sexual difference, the sexuality associated with it, and fears of “otherness” are at the heart of all oppressions in most societies, including Argentine and United States’ societies. However, beyond toleration in the form of non- or decriminalization, legal acceptance and recognition of the equality of same-sex couples to opposite-sex couples is a necessary first step.

The Same Rights with the Same Names

If the point is to recognize same-sex couples as equal to opposite-sex couples by granting them the same rights, why is it important to call it “marriage”? As long as the rights are the same, why is “civil union” or another alternative insufficient? If the union of two people of the same sex is called something other than marriage, it is, simply put, something other than marriage. Having “marriage” for heterosexuals and “civil unions” for gays establishes a “separate but equal” system. As learned from the Civil Rights Movement in the mid-twentieth century in the United States, if something is separate, it cannot be equal; for example, having schools for whites and other schools for African Americans did not result in an equal education system. Even if the legal rights offered are the same rights, the insistence on a term other than “marriage” maintains the belief that same-sex couples are less deserving of the right to marriage.

It is important to offer the same rights with the same names. According to Article 16 of the Universal Declaration of Human Rights, “Marriage” is a human right:

“(1) Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution. (2) Marriage shall be entered into only with the free and full consent of the intending spouses. (3) The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.”³²⁰

Equality only comes when people are equal. If some can have marriage and some cannot, everyone is not equal. If some humans get some rights and other humans do not, those rights must not be human rights. Either same-sex couples must have their right to marriage, or the system of human rights is compromised.

“Equal” Rights = “Equality”?

Does the provision of the same rights with the same name truly result in equality? Of course there are far more rights denied to sexual minorities that are not granted by the right to marry. Within the right to marriage itself, are same-sex couples now equal to heterosexual couples? Legally speaking, yes; the Civil Code now offers the same rights to couples regardless of the sexes of the partners. However, does legal equality result in tangible equality felt in the day to day lives of those supposedly benefitting from it? “Same” does not necessarily mean “equal;” the same rights do not result in equal treatment at all levels, and do not eliminate all discrimination. The original problem is that all humans should have human rights and all citizens should have human rights, but in the case of sexual minorities, explicit provisions must be made to ensure they are actually granted these rights. In theory, the rights were applied equally to all humans and citizens before; in practice, they were not. What makes Law 26.618 different?

³²⁰ *The Universal Declaration of Human Rights.*

It is problematic that the Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of Discrimination against Women, and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment are necessary.³²¹ Race and sex are explicit statuses for which a person cannot be discriminated against according to major human rights treaties, yet discrimination continues; thus, conventions explicitly addressing the particular needs of women and racial minorities were established. Torture is explicitly prohibited by an article of the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, but it became necessary to create a detailed treaty defining and outlawing it. Such is the nature of law; law is written, and when its limits are reached, it is expanded upon and new laws are made when necessary. The United States Declaration of Independence stated “that all men are created equal,” by which the founding fathers of the nation meant all white, propertied, voting-age men; women, slaves, and children were excluded from this equality. The 14th Amendment to the United States Constitution established equality for African Americans, but a century later, the Civil Rights movement still fought for tangible and real equality not yet offered to these citizens. “Equality” is always evolving, becoming more and more equal over time through legal and social nondiscrimination.

Why does Law 26.618 matter if it does not provide automatic equality at all levels? It is a nondiscrimination law at the national level. The law explicitly prohibits discrimination against couples based on sexual orientation and pairings based on sex. It cannot guarantee that these couples will never suffer discrimination in society. It can guarantee that all same-sex couples are able to marry if they so choose. The law is national legal recognition of the equality of same-sex couples and different sex-couples in terms of the right to marry. It is a right explicitly offered to

³²¹ Litardo, Emiliano.

sexual minorities for the first time in Argentine history. It sets the precedent that same-sex couples are equal under the law, providing a base to argue further cases, alter additional laws, and attain more rights for same-sex couples and other sexual minorities. The legalization of same-sex marriage is important to Argentina, the sexual minorities within it, and those beyond it in the rest of the world.

Section 2: Why Same-Sex Marriage Matters in Argentina and Beyond³²²

First and foremost, it is important to note that sexual minorities are systematically denied rights in the local, national, regional, and international spheres. This is problematic not only for sexual minorities, but also for human rights as a concept and a standard for global achievement³²³. Recognizing same-sex couples as equal to opposite-sex couples is the foundation of securing equal rights. Therefore, same-sex marriage is a fundamental element of our progress toward equality. It serves as the catalyst within society to create equality. True nondiscrimination begins with respect and recognition of same-sex couples as equal to opposite-sex couples, and therefore of sexual minorities as equal to heterosexuals. This opens the door to further rights, freedoms, and protections for sexual minorities. Providing sexual minorities equal access to the rights they supposedly hold as humans strengthens the overall system of human rights by ensuring that all have the rights they deserve.

³²² Based on an article written for my personal blog. Beckner, Linley. "Why Same-Sex Marriage Matters." 13 January 2011. All Rights for All – Todos los derechos para todxs (WordPress Blog). 10 March 2011. <<http://allforalltodosparatodxs.wordpress.com/2011/01/13/why-same-sex-marriage-matters/>>.

³²³ The Universal Declaration of Human Rights (UDHR) is "a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction." *The Universal Declaration of Human Rights*.

Beyond Argentina

Same-sex marriage matters, not just to sexual minorities, not just to the State of Argentina, but to the foundation and system of human rights. Argentina has set a precedent. It not only moved itself towards true equality for all, but also made a statement to the world. Sexual minorities around the world still suffer violations of their most basic human rights: in this world, a lesbian like Eudy Simelane can be gang raped to “correct” her sexuality before being stabbed 25 times (April, 2008 in South Africa),³²⁴ a gay couple like Tionge Chimalanga and Steven Monjeza can be sentenced to 14 years hard labor for their sexuality (May 18, 2010 in Malawi),³²⁵ a travesti like Lorenza Alexis Alvarado Hernández, can be beaten and burned to death (December 22, 2010 in Honduras where, as of March 2011, “more than 31 murders of gay and transgender people [...] ha[d] occurred in Honduras since the coup in June 2009),³²⁶ and many more unimaginable horrors can occur on a daily basis. Sexual minorities need protection, first in the form of tolerance, next in the form of nondiscrimination, and finally, in the form of equal rights. The ultimate hope is that sexual minorities will eventually be celebrated of society. Argentina took an important step on its own soil and on the international stage towards achieving such equality. Support for same-sex marriage is not simply offering gays the opportunity to stand at the altar and say their “I do”s like any heterosexual couple; it is support of global progress toward true equality, toward a system of human rights that truly ensures the same set of rights for all humans.

³²⁴ Kelly, Annie. “Raped and killed for being a lesbian: South Africa ignores ‘corrective’ attacks.” 12 March 2009. The Guardian. 17 April 2011. <<http://www.guardian.co.uk/world/2009/mar/12/eudy-simelane-corrective-rape-south-africa>>.

³²⁵ “IGLHRC and CEDEP Condemn Unjust 14-Year Sentence for Malawian Couple.” Press Release. 20 May 2010. The International Gay and Lesbian Human Rights Commission. 17 April 2011. <<http://www.iglhrc.org/cgi-bin/iowa/article/pressroom/pressrelease/1131.html>>.

³²⁶ “Three Murders in Two Weeks: Protest the Killings of LGBTI People in Honduras.” Action Alert. 10 January 2011. The International Gay and Lesbian Human Rights Commission. 17 April 2011. <<http://www.iglhrc.org/cgi-bin/iowa/article/takeaction/globalactionalerts/1308.html>>.

Section 3: Argentina's Toolbox: What We Can Take Away from the Argentine Example

Given that same-sex marriage is an important step in achieving nondiscrimination and equality for sexual minorities, what can be learned from the Argentine case? The historical pathways, culture and society, social movement, and human rights context are very particular to Argentina. The Argentine case cannot be exactly replicated anywhere simply because there is only one Argentina. However, what can be taken away from the example and applied elsewhere?

First, historical pathways, wherever they may open up, should be explored and utilized however possible. A foundation of non- or decriminalization is the first step. Tolerance must then be achieved gradually, with society changing law as possible so that law may ultimately confirm these changes and encourage additional change in the future. Furthermore, internal parallels should be drawn in the context of the politics of identity surrounding the aforementioned “danger”³²⁷ to the state and its people and “national pride” such that the legislation can be justified to and by legislators and other political leaders. This may include taking internal case studies, such as other human rights issues, or more specifically related cases, such as interracial marriage laws, as precedent or as a working base from which to build an argument for same-sex marriage.

Second, explicit and implicit support and opposition within culture and society should be thoroughly addressed. The most vehement opponents of the nondiscrimination and equality of sexual minorities in the world today are religious; their opposition is explicit. It is important to have a grasp of this opposition such that it can be combated and challenged. If, as in Argentina, there is some separation between the Church and the Argentine people and government, this

³²⁷ Here it is important to note that the “danger” is not a supposed “threat” posed by homosexuals, as fears of “threats” to public morality and decency are not made in Argentina, rather to the threat of denying any group of people human and civil rights.

opposition is easier to fight because there is a preexisting divide that may even be widened by the Church's statements and efforts against minorities such as sexual minorities. Where there is explicit support for sexual minorities within the Church, it is important that efforts align with those supporters, as this further weakens the opposition. Additionally, support from the Church may be gleaned from implicit support present in more neutral individuals; often arguments that appeal to religious people, for example, beliefs like "love thy neighbor," may further isolate those leaders and constituents working within the contexts of hate and condemnation. Even people who are otherwise neutral in their opinion on gay rights are often swayed in favor of sexual minorities due to the opposition's extreme persecution; where understanding and active support are sparse, empathy can still thrive.

Additionally, activists, academics, and everyday people alike should take opportunities to closely examine and challenge cultural and societal views on gender and sexuality. Much oppression is based in sexual difference. While the Church may be the loudest opponent of legislation such as gay marriage, the status quo of patriarchy may truly be the silent killer of many efforts. Too often, an argument comes from those who have gay friends and have no moral problem with them or their relationship, however, they have been raised to believe that marriage, as the foundation of the family, is between a man and a woman due to their biological ability to have children and physically make their own family. While extraordinarily problematic (for example, what about straight couples that cannot have children due to biological reasons such as infertility?), this sort of belief is common and should not be surprising. When a new baby is born, or once ultrasounds are done past a certain point in the pregnancy, it goes from being "it" to being a "boy" or a "girl;" it is not even described as fully human until it is sexed/gendered. The boy or girl is then immediately placed into the heterosexual matrix

described in Chapter III (“he’s so handsome; I’m sure he’ll get all the ladies when he grows up”). Men have, women have not. The heteronormative nature of society is a result of the male/female man/woman desires female/desire male binary which offers power to men and lack to women.

Society’s fear of homosexuality is, therefore, largely a fear of the breakdown of this matrix and the power structures currently in place. The liberation of sexual minorities, or alternatively from the constraints of the heterosexual matrix, this gender “norms” in general, is perhaps key to the liberation of society in general from patriarchal constraints and power dynamics, something at once invigorating to feminists and the like, yet threatening to the status quo and the comfort society has developed in conforming with it. The challenges faced by sexual minorities to bring to light the possibilities inherent for all of society in the granting of nondiscrimination and equality to sexual minorities. If our fear of “otherness” is most deeply rooted in a system that permits and requires the oppression of “others,” (be it Christians oppressing Jews, whites oppressing Blacks, men oppressing women, straights oppressing gays,) perhaps the construction and foundation of the system should be revisited.

Third, social movements are well-equipped to accomplish change. In order to achieve success for sexual minorities, “[a]ctivism needs to be fitted to context, so that a ‘critical mass’ is achieved, allowing sufficient acceptance of change. Once this is translated into law, a ‘halo’ effect is produced.”³²⁸ That is, the movement must gain a sufficient number of members and supporters. When this activism results in legislation, additional acceptance of other legislation will occur based on the original acceptance of the first law. Connecting the advocacy and rights’ organizations that exist into more united efforts further empowers such movements. These organizations provide resources including education, funding, and networking. In the case of sexual minorities, there are international organizations and networks to tap into that widen the

³²⁸ Tahmindjos, Phillip. pp. 231.

base from which lessons can be learned (especially as they can be applied to particular local contexts). Especially in countries where gay rights movements are young and/or threatened by government opposition that may even take the form of government sanctioned harassment, imprisonment, torture, or murder, help from abroad is paramount.

Finally, “gay rights” must be established as human rights and/or citizens’ rights. In most countries, “gay rights” are seen as “special rights.” Allowing gays to marry is not at first seen as providing gays with equal access to their rights; it is seen as some sort of privilege. This view must be challenged. Sexual minorities around the world suffer violations of some of the most highly regarded and strongly protected rights, as they are harassed, beaten, tortured, or even murdered on a daily basis. Requesting protection from that sort of abuse is not asking for access to a privilege reserved for heterosexuals; that protection is sexual minorities’ human right. Due to the interdependence, indivisibility, and interrelatedness of human rights, the right to marriage can be no less “basic” than that right to protection of life. As the Argentine case shows, equality is not a special right.

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Appendix

Guion del formulario de consentimiento del informe oral

Oral Informed Consent Form Script used at all interviews conducted for my independent study, “Otra condición social”: Todos los derechos para todos, Un estudio de caso de los derechos humanos de minorías sexuales en la Argentina (“Other Status”: All Rights for All, A Case Study of Human Rights of Sexual Minorities in Argentina). Permission was obtained by all interviewees to use quote them in my thesis.

Soy una alumna del Programa de Estudios “SIT Study Abroad—Independent Study Project”, o SIT, un programa para que extranjeros estudien en Argentina y realicen un proyecto independiente. Soy estadounidense y estudio en una universidad llamada Mount Holyoke en el estado de Massachusetts en el norte del país. El propósito de mi investigación es establecer el próximo paso del movimiento de las minorías sexuales en la Argentina y además analizar el movimiento aquí dentro del discurso de los derechos humanos. Utilizaré los datos de mi investigación en un ensayo. Mi meta última es ser capaz de escribir una tesis que analice el movimiento de minorías sexuales en el contexto del movimiento global de derechos humanos, apuntando a la manera en que podemos reducir la brecha entre ambos.

Obtendré mis datos mediante investigación, entrevistas y observaciones. Analizaré esos datos con un marco teórico sociológico en contexto de teoría y práctica de los derechos humanos y con comparaciones y contrastes entre los datos y entre fuentes. **Planeo utilizar los datos adquiridos durante esta investigación más a fondo durante el año próximo para mi tesis.** Si prefiere que la información que obtengo de usted sea usada solo en este proyecto, por favor, indíqueme cuál información (total o parcial) le gustaría limitar a este estudio en particular. Si en algún momento tiene alguna pregunta o inquietud, avíseme.

El consentimiento del informe oral que sigue es requerido a cada persona que está involucrada en esta investigación. La misma ha sido aprobada por el “**Institutional Review Board of Research with Human Subjects**” o comité de evaluación de investigación sobre

temas humanos del SIT y cumple con la política de ética de dicho programa.

Como participante en este estudio, usted comprenda que:

1. Su participación es voluntaria.
2. Puede retirar su consentimiento y concluir su participación en ese estudio (o cualquier parte del mismo) en cualquier momento sin ninguna consecuencia negativa.
3. Le he dado una explicación de mi proyecto, incluyendo el propósito, la manera en que lo realizaré, los planes para una investigación más a fondo y he respondido o responderé a sus preguntas.
4. Toda la información será confidencial. Solo utilizaré su nombre real con su permiso explícito, si no, colocaré un seudónimo que puede elegir usted mismo si lo desea.
5. Entiende que solo yo tendré acceso a la información que usted me brinde.
6. Los resultados de mi investigación serán incluidos en el ensayo final de este proyecto y en mi investigación más a fondo solo si usted no indica que prefiere que únicamente la información se utilice para este proyecto en particular.

Ha entendido los procedimientos que se seguirán y por la presente me da su consentimiento para participar en esta investigación. Si tiene más preguntas respecto a esta investigación y proyecto, le dejaré mi información de contacto para que usted se comuniquen con él.

[Por medio de la presente declaro que he leído la información arriba a (nombre de la persona) antes de (tipo de actividad). Firma, aclaración y fecha.] [Información de contacto.]