

Latin American Narratives About Abortion: The Argentina Case

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Reproductive rights are a human rights concern in most Latin American¹ countries, with women and pregnant people often vulnerable to negative health consequences associated with unsafe abortion practices. This essay considers the development of abortion policy in Latin America through discursive institutionalism to better understand the impact of ideas and discourse on gendered human rights. To do this, I first explore the importance of discursive institutionalism. Discursive institutionalism suggests that discourse analysis is a powerful tool for understanding how ideas have a unique and relevant impact on policies (Schmidt, 2008). Coming from a post-structural and constructivist tradition, discursive institutionalism argues that policies are made within specific policy paradigms internalized by politicians, state managers, policy experts, and others (Hay, 2006). I then outline the political and reproductive rights context of Latin America, including the specific case study of Argentina – a country that legalized abortion in 2020. Using the lens of discursive institutionalism, we can understand shifts and parallels within the Catholic Church and the state government, starting in the 1990s and continuing to recent legislative change.

Frameworks of Discursive Institutionalism

First, why discursive institutionalism? As Viven A. Schmidt (2008) frames it, this type of institutionalism overcomes the limitations of the main institutional approaches in political science (rational choice institutionalism, historical institutionalism, and sociological institutionalism) and explains institutional change through the analysis of discourses and power in their specific context. Colin Hay (2006) has a similar argument from the constructivist tradition; the name he gives to this type of

¹ “Latin America” is generally understood to consist of the continent of South America, as well as Mexico, Central America, and the islands of the Caribbean whose inhabitants speak a Romance language such as Spanish (Britannica, n.d.).

institutionalism is “constructivist institutionalism.” Even though they differ in the importance given to ideas, Hay's (2006) explanation about construction and policy change also applies to discursive institutionalism. Hay (2006) explains that policy is made within the context of policy paradigms. In this sense, ideational change precedes institutional change. “Policy paradigms are the cognitive filters that the actors in the policy process have. These shape reality in the sense that the goals of policies, the instrument to meet these goals, and the nature of the problem are defined inside these frameworks of ideas” (Hay, 2006). The role of material reality, then, is open to interpretation. Who dominates the ideational change and wins in the interpretation of reality stage, then sets the agenda for policy? As the next section illustrates, different actors can perform different roles in ideational change with differing influences and results.

The role of rational choice is an important factor when explaining institutional change through discourses and ideas. Indeed, it is relevant to set an important disclaimer about material reality and to understand the constructivist roots of discursive institutionalism. The disclaimer about material reality is that the constructivist tradition doesn't deny it exists; one of the assumptions that most constructivists share is that social constructions influence people's daily lives. That a concept is socially constructed doesn't mean it doesn't have real-life consequences. For example, the fact that restrictive laws about abortion are constructed following a specific conservative interpretation of reality doesn't mean that they don't have real-life consequences on the lives of pregnant people; on the contrary, its outcomes are tangible in the rates of unsafe abortion. Having said this, the debate between rational choice versus constructionism is not about there is a material reality versus there is not, but rather this debate is about whether institutional change is guided by rationality and self-interest as opposed to institutional change guided by the predominant discourse.

To understand why discursive institutionalism is more accurate, we must understand that the key assumptions of rational choice theory; “rationality and self-interest” are shaped by discourse (Lowndes et al., 2018, p. 39). As Hay (2002) argues, “most rationalist explanations do not distinguish between reality and actors' perceptions of it. Instead, they assume that actors have access, if not to perfect information, then at least to relatively full and accurate information” (p. 196). Joel Best (2007) also considers how social problems are constructed rather than the result of individual rational choice. In this sense, when analyzing a social problem, the focus should be “not on conditions (of the problem that is being constructed), but on claims about conditions” (Best, 2007, p. 10). In this case, the claims about conditions are the discourses regarding abortion. This is not because the conditions don't exist,

but because these conditions need to be interpreted to be problematized and negotiated in the public sphere and in policy development.

Political and Reproductive Rights Context of Latin America

Analyzing the Latin American political and reproductive rights context is crucial for understanding why some abortion narratives succeeded and others failed in the lead-up to the country's legalization of abortion in 2020. Latin American countries have similar material and institutional realities where discourse is situated. As Best (2007) argues, all stages social problems' constructions are influenced by resources and rhetoric. The impact of discourse must also be understood in how power relationships are configured because discourse is not presented in a vacuum, but instead always in a specific context where it interacts with other discourses and resources. As Schmidt (2008) explains:

Specific institutional settings are also important. Discourses succeed when speakers address their remarks to the right audiences (specialized or general public) at the right times in the right ways. Their messages must be both convincing in cognitive terms (justifiable) and persuasive in normative terms (appropriate and/or legitimate) (p. 313).

Two important characteristics of Latin America are central for understanding developments regarding abortion: The predominance of Catholicism and the region's colonial legacy, especially when it comes to understanding race and class. First, Latin America is predominantly a Catholic region. It is home to more than 425 million Catholics – nearly 40 percent of the world's total Catholic population (Pew Research Center, 2014). This is important because it means that normative Catholic values inevitably affect policy, especially the ones related to sensitive topics for the Church such as abortion. The position of the Church, then, is highly important in political contexts, and its influence in the region could be counted as a resource for the anti-abortion movement. Second, the region has a colonial past that is intertwined with European countries, which reinforces Catholic normative ideas and intertwines those norms with people's culture, daily life, and identities. Colonial understandings of class and race are also deeply connected; colonialism in the region produced the idea of race and made it deeply engrained in social structures, including work roles (Quijano, 2014).

In Latin America, the impacts of Catholicism and colonialism factor into whether particular discourses regarding abortion succeed or fail. Working women – that is, those who are less likely to access safe abortions when the procedure is criminalized – are also racialized, giving them intersectional and doubly marginalized identities as being both poor and women of color. They are positioned in more vulnerable social situations with less power to mobilize in the public sphere. Meanwhile, criminalized

abortion laws are rarely enforced for middle class women – even though the practice is widespread. When wealthier women have access to safe abortions in private clinics, they often see little reason to press for liberalized abortion laws. It is primarily poor women who suffer the consequences of clandestine abortions (Htun, 2003).

Argentina: Church and Government Narratives, 1990s versus 2020

The process of institutional construction through discourse becomes evident with the legalization of abortion in Argentina. Consider the discourses in Argentina during the 1990s, when calls to legalize abortion failed, and in 2020 when the initiative was successful. As Daniel Beland (2009) argues, “ideas have a major role in shaping policy change but do not constitute the only possible source of change. Ideas only become a decisive causal factor under specific institutional and political conditions” (p. 702). Therefore, the comparison between these time periods is useful because it allows us to understand discourses in their proper contexts, including according to who created the discourse and who their intended audience was. Indeed, “discourse is not only what you say...it includes to whom you say it, how, why and where in the process of policy construction and political communication in the ‘public sphere’” (Schmidt, 2008, p. 310).

The Catholic Church in Argentina

The 1980s and ‘90s were important decades for the liberalization of politics, economics, and laws in Argentina, as well as for the global feminist movement. Different countries in Latin America became democracies and individual rights and freedoms became core values. Yet at the same time, the “political clout” of abortion opponents grew, especially after John Paul II became Pope and anti-abortion activists organized globally (Htun, 2003, p. 6). The discourse of the Church was in every form against abortion and the influence of Pope John Paul II was crucial. He targeted Latin America and its churches’ progressive movements (such as their engagement with liberation theory) and made efforts to boost the anti-abortion movement in the region. Merike Blofield (2008) explains that the Pope “had a significant influence on the balance of power between conservative and reformist clergy (through papal appointments, organizational changes, and persuasion and pressure) and consequently on domestic politics in Catholic countries” (p. 400).

Even though the Church was still against abortion in 2020, its discourse had become substantially different. Pope Francis was the first leader of the Roman Catholic Church from the Southern Hemisphere, as well as a Jesuit – the strand of Catholicism that advocates for social justice and

liberal viewpoints. This is important because his identity associates the Church with a progressive institution (see *The Conversation*, 2022; Gibson, 2014). Pope Francis also declared abortion forgiveness, allowing priests to absolve women who had an abortion and recognizing women's decisions to have an abortion as a "moral ordeal" undertaken under various pressures (ABC News, 2016; BBC, 2016).

These declarations are extremely important because they set a precedent in the Church's opinion regarding abortion. Two impacts can be identified: First, there is a normative impact on how the world should be. That is, women shouldn't live in through a "moral ordeal" after having an abortion since there is pressure that leads them to this decision. That pressure could be interpreted as poverty, lack of services and options, and other factors. In a sense, the judgement behind Pope Francis' words could be interpreted as judgement against the injustices that women face – and recognizing these injustices is the first step to political action. Such normative ideas attach values to political action and legitimate policy change; "normative ideas speak to how (first level) policies meet the aspirations and ideals of the general public and how (second level) programs as well as (first level) policies resonate with a deeper core of (third level) principles and norms of public life, whether the newly emerging values of a society or the long-standing ones in the societal repertoire' (Schmidt, 2008, p. 307).

The second impact of the Pope's discourse is his influence on the public, including Catholics who could interpret his words as the normalization of reproductive rights. It could mean acceptance of the idea that, with or without restrictive laws, women will have abortions and they deserve forgiveness. As Oscar L. Larsson (2015) writes, "the ideas themselves come to exert their own influence, transcending the power of those who originated them...[I]deas are constitutive of reality, such that they are both subjective and intersubjective" (p. 176). Ideas in this sense are also intersubjective; the literalism of Pope Francis is important not only because of what he directly says but also because of how different groups of people can interpret it and act in response.

Argentina's Government

Government discourse has normative and cognitive components on the topic of abortion. Normative in the sense that laws send powerful messages about right and wrong, but also cognitive because the government is tasked to justify how its policies are best fit to resolve a problem. The Argentinian government has had a strong normative influence on abortion laws. Its civil and criminal codes sometimes involve regulating women's bodies, reflecting the principles the country chooses to morally guide society. Those legal codes structure social action and transmit common values, providing moral or cognitive templates for interpretation and action (Htun, 2003; Hall & Taylor, 1996). The law

“tells stories about the culture that helped to shape it...stories about who we are, where we came from, and where we are going” (Oldham, 1990, p. 8). The civil and criminal laws of Latin America “thus have a strong ethical component, making ideas an important part of debates about legal change” (Htun, 2003, p. 3). When making legal decisions regarding abortion, the government is also changing normative ideas in the country. “Due to the hortatory nature of civil and criminal laws in Latin America, gender-related legal reform involves more than a mere policy shift,” writes Mala Htun (2003). “It can represent a transformation in the social and moral norms governing an important sphere of human behavior” (p. 11).

Cognitive ideas provide the recipes, guidelines, and maps for political action and serve to justify policies and programs by speaking to their interest-based logic and necessity (Schmidt, 2008, p. 306). In the case of Argentina, the cognitive component historically justified the stance that abortion shouldn't be legalized. During the '90s, President Carlos Menem sustained very explicit discourse against the rise of the pro-choice global movement and in “favor of life” through various actions, speeches, and symbols. In 1998, Menem issued a presidential decree declaring March 25 the “Day of the Unborn Child,” chosen to coincide with the Catholic Feast of the Annunciation. The decree (Decreto 1406/98) declared that “the international community has identified the child as a dignified subject of special consideration” (quoted in Htun, 2003, p. 162). He also proposed that Latin American presidents gather for the Fourth Ibero-American Summit in Cartagena, Colombia, to sign a declaration condemning abortion. Although Menem was unable to convince the other presidents, he received a letter from Pope John Paul II thanking him for “his initiatives aimed at promoting family values and defending life” (Htun, 2003, p. 161).

Menem's anti-abortion discourse in the 1990s stands in stark contrast to later presidential action on this issue. Menem's efforts are an example of the limitations of the rationalist institutional approach in comparison to the discursive institutional one. His government was part of the transition to democracy and liberalization after years of dictatorship in Argentina, which praised liberal values. However, this wasn't the case with abortion. This might be explained through the assertion that “policymakers operate according to a logic of moral or social appropriateness, not a logic of consequentiality” (Campbell, 2002, p. 24). In 2020, President Alberto Fernandez supported the feminist movement and presented initiatives to Congress for the legalization of abortion. Fernandez was part of the Peronist party, an Argentinian leftist organization that worked closely with progressive social movements. His performance in favor of abortion legalization could be understood through the analysis that “actors are more likely to favor policy interpretations that best conform to their cognitive schema

and political beliefs” (Campbell, 2002, p. 24). Further, “[b]ecause political decisions are made by people who are subject to the limits of bounded rationality, they inevitably use cognitive and normative heuristics and shortcuts to form their opinions” (Campbell, 2002, p. 24).

The case of the Peronist party is also a clear example of how there is a way to overcome the ideas versus material interests debate through discursive institutionalism. The Peronist party is probably one with the most influential parties in Argentinian contemporary history and it is known as the working-class party. Juan Perón, the president who gave the name to this political party, “transformed Argentina’s economy, social structure, and political culture in ways that continue to shape Argentine reality” (Karush & Chamosa, 2010, p. 2). This party, however, was polarized in its position regarding abortion. Fernandez and the Peronists used the idea of social justice, a key claim of the Peronist party during its whole history, to say that abortion access is also social justice issue for women (see Bellucci, 1997). In this sense, the idea of social justice that historically constituted the Peronist discourse influenced the Peronist working-class identity to support legal abortion. We can therefore see that ideas, when collapsed with certain identities, don't have to be mutually exclusive with material interests; actually, ideas and material interests can interact and interact with one another.

Conclusion

Ideas and discourse play a decisive role in policy development. Discursive institutionalism helps us understand these impacts by paying attention to cognitive and normative ideas and their relation to power, resources, and rhetoric. This approach pays detailed attention to discourse in the evolution and construction of social problems and policy. Using the Latin American political context, and Argentina specifically as a case study, we see that discourses related to the Church and government have influenced changing views of (and laws related to) abortion rights. While more research could help us better understand how the feminist movement can more efficiently utilize discourse to support abortion access in Latin America, this analysis gives us insight into the shifts needed to have a more equal battle for social change.

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