

Beyond Identity: Redistributive Transgender Rights in Argentina

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Rally in support of a job quota for trans people within the Santa Fe provincial government. Santa Fe, Argentina 2019. Credits: “Aprueban cupo laboral trans – Santa Fe” by Gisela Curioni is licensed under CC BY-SA 4.0.

Defying the dark, heavy clouds that threatened to pour down on Buenos Aires, a crowd from more than 90 organizations was milling around at a demonstration in support of a reparations bill for Argentina’s transgender elders. Taking the microphone, activist Paula Luana Salva opened the event by warning, “We know that fascism is on our doorstep, and we trans women have looked it in the eye and will keep doing it,” as chronicled [in one account of the event](#). Referring to the older trans generations’ crucial role in creating more favorable circumstances for those of us who came after, she added, “You have to know we gave it all, and we don’t owe you anything more: now it’s time to do us justice.”

Over the past decade, trans and *travesti* communities in Argentina have been calling for economic reparations for our seniors (*travesti* is a feminine gender identity specific to some areas of South

America). Three different bills have now reached the Argentine Congress, each offering pensions as a way to compensate for the high degrees of violence towards the trans community in recent history.

[One bill](#) is aimed at any member of the trans and *travesti* communities who can prove to have been arrested due to their gender identity, a regular occurrence until rather recently. This mirrors other [reparations policies](#) which already exist in Argentina for the victims, and families of victims, of state terrorism during the country's last military dictatorship (1976-1983). The [other two](#) bills establish reparations for any trans person or *travesti* over 40 years old and under certain income level as a way of recognizing multiple forms of exclusion besides state-sanctioned violence: being expelled from their families as teenagers, facing discrimination in most spheres of public life or only having access to back-alley body modification procedures. Above, I described these policies as reparations for trans elders. A 40-year old would not usually be described as a senior in Argentina, which has a [life expectancy of 75](#); but due to these harsh living conditions, the comparatively few trans people and *travestis* who have lived past middle age are often considered survivors.

Indeed, throughout most of the 20th century, and in some cases into the 21st century, wearing “clothes of the opposite sex” was classified as a “scandalous” misdemeanor in most Argentine provinces and municipalities. [Activist actions and publications](#), [community-based research](#) and [academic research](#) have shown how police regularly mobilized these regulations to detain trans women and *travestis* for walking down the street, or to extort them for money in exchange for leaving them alone. Many of them used to be arrested dozens of times a year or even more than once a week. Each time, they were held in a police station for a few hours to a few days—without a sentence or access to a lawyer—, usually suffering physical and psychological abuse and a lack of even the most basic necessities.

Intra-communal solidarity in these situations, such as bringing blankets and food to those arrested, [has been documented](#) by community archival projects such as the [Archivo de la Memoria Trans](#). Some of the [earliest forms](#) of *travesti* activism in the 1980s were fueled by and against police brutality. Starting in the 1990s, the same issue led to coalitions with gays, lesbians and bisexuals, who were also targeted for “immorality” although to a lesser degree. In the country's capital city, Buenos Aires, the misdemeanor against “clothes of the opposite sex” was finally repealed in 1998 thanks to this activism. However, *travestis* and trans women who are multiply marginalized for their class, race, and/or national origin have continued to be targeted by the police on charges of sex work or drug trafficking, whether or not they actually engage in those activities.

Today, if a bill on reparations were to pass, it would add to a body of trans rights legislation that has been growing steadily in Argentina for over a decade. The most ground-breaking among these was the 2012 [Gender Identity Law](#), which allows individuals to change their name and the gender marker on their official ID and to access trans-related healthcare. This law has been hailed [internationally](#) as cutting-edge for its underlying model of [self-determination](#) and its acceptance

that trans identity is not a pathology. This means that individuals are allowed to decide about their own body and legal documentation, without either the approval of a judge or a medical diagnosis such as “gender identity disorder” or “gender incongruence.” In contrast, many countries in other regions such as [Europe](#) continue to require a mental health diagnosis, divorce or even sterilization for ID changes and/or medical transition.

In 2021, Argentina passed [a nation-wide law](#) which supports trans people’s access to formal employment, both through tax benefits for employers and a 1% quota in federal government jobs for trans employees. This policy seeks to counter historically high levels of informality and unemployment, revealed by a long tradition of community-led studies (since official statistical information about this population is scarce). A [recent survey](#) in Buenos Aires found that only 9% of trans women and *travestis* have formal jobs; trans men and nonbinary individuals tend to have somewhat better prospects, though still below general population levels.

This law is the most recent step in a long history of trans and *travesti* activism focused on [creating or accessing jobs](#), often as an alternative to sex work. Although many trans women, trans men and *travestis* have pursued a variety of strategies for labor inclusion, some of the best-known examples are the late working-class *travesti* activists Lohana Berkins, who mobilized government grants to create [small cooperative factories](#) and Diana Amancay Sacayán, who successfully [called for employment quotas in Buenos Aires](#)’s provincial government.

Public policies such as the Gender Identity Law and the national and provincial laws promoting formal employment are examples of how Argentina’s trans politics go beyond calls for identity-based non-discrimination policies. U.S. [trans legal scholars](#) have already shown how these kinds of regulations would be insufficient to improve the actual, material life chances for most of the trans population: anti-discrimination laws are difficult to enforce –especially when discrimination is enacted by corporations, state agencies or powerful individuals. These regulations can also be used to strengthen the same police force which targets this community. In contrast, scholars have pointed out that Argentine trans and *travesti* activists have focused on—and achieved—regulations which [imply a redistribution of resources and life opportunities](#).

For example, the Gender Identity Law establishes free administrative procedures for name and gender marker changes, and free access to trans-related healthcare, including hormones or surgeries, both through the public and private health systems. In this way, ID changes and transitional procedures are not only allowed but also theoretically made widely accessible. For applicants to the 1% quota in federal government jobs, the trans employment law establishes a selection process which attempts to offset the disadvantages caused by lifelong marginalization. Acknowledging a history of police targeting, the law establishes that applicants cannot be rejected for having a criminal record with anti-crossdressing charges or any other charges irrelevant to the job solicited. Similarly, since most of the trans population holds less than a secondary school diploma, the law stipulates that candidates should be selected regardless of educational background, provided that they commit to finishing any degrees required for the job after being

hired.

The content of these laws derives from a history of *travesti* and trans activism which, as mentioned above, [partially came into being](#) in response to police brutality against trans women and *travestis* —mainly working-class, mostly sex workers, often of Indigenous descent and/or internal migrants. These laws also stem from other strands of the country’s trans movement that arose in the 1990s, including [transsexual activism](#), which called for the possibility of legal gender recognition and transitional healthcare. [Transmasculine activism](#) also played a key role, especially through figures like [Mauro Cabral](#) who advanced the re-classification of trans identities from a mental disorder to simply a way of being on a national scale and [in World Health Organization classifications](#). These two strands have recognized access to legal documentation and bodily modifications as ways of creating material conditions for a more liveable life. As a result of all these lineages, Argentine trans and *travesti* activism [remains](#) to this day [acutely aware](#) of the need for a trans politics which attends to material, classed, racialized and geographic disparities, instead of only aiming for a symbolic recognition of trans equality.



Person wearing a t-shirt with the slogan “No to transphobia” at a rally for the National Day for the Promotion of Trans Rights. Santa Fe, Argentina, 2019. Credits: “File:Dia de la Promocion de los Derechos de las Personas Trans Santa Fe 2019 periodicas titi nicola 17.jpg” by TitiNicola is licensed under CC BY-SA 4.0.

Unfortunately, the redistributive promises of the gender identity law and the trans employment law have yet to be fully realized. Transitional healthcare is supposed to be covered fully by the

country's public and private health systems, and many trans people have indeed benefited from this policy. However, budget cuts in public health create long waitlists for surgeons and periodic shortages in hormone provision. Meanwhile, private healthcare providers [often deny](#) requests for coverage, knowing that the process for appealing their decision would be long and tedious, and hoping trans people will simply give up.

In relation to the trans employment law, the federal government has been slowly hiring trans employees, although at the present rate it would take [eighteen years](#) to reach the 1% quota. But perhaps the most worrying trend is that the process is leaving behind the egalitarian and inclusive spirit of the law, which seeks to even the playing field for the most disadvantaged trans individuals and create friendly work environments. A majority of those hired by the national government are young, often white, and have finished secondary or even post-secondary education; although most of them also need these jobs due to transphobia in the private sector, biases in hiring must be called into question. The law is also failing to provide favorable work conditions for employees hired through the quota: they often [report](#) being misgendered or discriminated against in their workplaces, and many of their contracts are short-term and low-paid.

Despite the deep inequalities described in this article, the cultural and political landscape in Argentina is relatively benign for trans people, in contrast to the [increasingly hostile](#) contexts in places like the United States and [United Kingdom](#). This year, while many states in the United States have been rolling back rights, especially for trans youth, the Argentine president [has met publicly](#) with families with trans children for the Trans Day of Visibility. But the country is witnessing a sharp rise in support for right-wing candidates, including the ascent of a Trump-like, Bolsonaro-like candidate who has chances of winning the presidential elections in October. The comment section of any publication on trans rights in Argentina is full of hatred, often blaming this community's alleged "special privileges" for the economic disenfranchisement affecting much of the country's population.

It is more urgent than ever to secure rights before a potentially adverse president comes into office, especially for the trans elders who have been fighting for most of their lives, and who might not be able to wait for the next progressive turn in politics. *Travesti* leader Lohana Berkins, who passed away at 50, often said "Our revenge will be to reach old age" ("Nuestra venganza será llegar a viejas"). For those who have survived a lifetime of discrimination and bodily harm, and who played a key role in creating better opportunities for us younger generations, state reparations would contribute a great deal to allow them to achieve revenge, and to do so with dignity.