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Legal obstacles and social change: strategies of the abortion rights movement in Argentina

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ABSTRACT

On April 2018, the Argentine Congress began debating a bill proposing the legalization of abortion on request for the first time in the country's history. Although it passed in the Lower Chamber, the bill failed to be approved by the Senate. However, the legislative debate showed the strength of the Argentinean abortion rights movement. Since the mid-2000s, and as a reaction to political paralysis in the area of abortion rights, activists in this country developed three main strands of strategies, which differed in terms of their time-frames, levels of institutionalization, targets, and scales. Based on original field research, this article analyzes the way in which each of these three tracks addressed the state, the current legal framework and the need for legal reform. It argues that, when legal reform is blocked, different movement sectors may develop parallel strategies to increase access to their demands within the existing normative framework. Through their diverse strategies, they test the limits of the law, challenge hegemonic legal interpretations and re-interpret what is permissible in alternative ways. In addition, the interaction between the different strategies created a powerful synergy that strengthened the movement and made the recent legislative debate possible, even under the leadership of an anti-choice president. Given the similarities of the Argentinean restrictive legal framework and movement strategies with those throughout Latin America, these arguments are relevant for the assessment of current developments within abortion rights movements and their interactions with the legal system in other countries in the region.

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Introduction

How do different actors within a social movement relate to the state and the law in a restrictive and resistant-to-change legal framework? We answer this question through the analysis of the strategies of the abortion rights movement in Argentina from 2003 until the opening of the legislative debate in April 2018. While the 1983 democratic transition opened up the political space to discuss and approve numerous legal changes that increased women's rights and advanced gender equality in the country,¹ the 1921 abortion law, which authorizes the practice under very limited circumstances, has not yet been modified. In response, the movement for abortion rights, which has been present since

the democratization process, has developed three strands of strategies, particularly since 2005. We argue that each of these tracks interacted with the state and the legal system in a different way.

The first is the National Campaign for Free, Safe and Legal Abortion, launched by women's organizations in 2005. Its main strategy has been political mobilization and the fight for abortion legalization through the drafting of a bill that was introduced at the National Congress for the first time in 2006, but was not discussed in plenary session until 2018. Secondly, feminist lawyers and public health professionals have developed a parallel rights and public health strategy, drafting guidelines for the provision of lawful abortions to be enacted by Health Ministries, at both the national and provincial level. They have also organized training workshops for judges and lawyers on reproductive rights, in order to create the grounds for legal activism and future changes to the law through the Judiciary. Finally, since 2009, a network of feminist organizations and health professionals have focused on a direct-action and service provision strategy, as a result of their frustration at the lack of reform in both Congress and the courts as well as lack of effective implementation of abortion services at public hospitals. Their actions have involved facilitating access to information about self-induced abortion through telephone hotlines and websites; accompaniment of women through the process (abortion doula services);² and the provision of abortions based on an interpretation of the health exception such that all unwanted pregnancies are considered a threat to a women's psychological health.

This paper studies how each of these strategies addressed the state, the 1921 legal framework and the need for legal reform. Based on original field research conducted over the last 10 years, we argue that, when the demand for legal reform is blocked and resisted, social movements, while maintaining their original claims, might also develop parallel strategies to increase access to them within the current legal framework. In these contexts, different groups develop strategies that vary in terms of their time-frames – focusing on short and mid-term tactics – as well as with regards to their levels of institutionalization, targets, and scales. Through their diverse strategies, movement activists test the limits of the law, challenge legal hegemonic interpretations and re-interpret what is permissible. Drawing on the study of the Argentine abortion rights movement, we analyze the implications of different strands of strategies for legal change. This paper puts emphasis on the third track, that of direct action and service provision, given that it is the most innovative and least studied in the women's movements literature.

There are only a few studies so far that addresses the multiple strategies of the abortion rights movement in Latin America and their relationship to the state and legal change (Bergallo and González Vélez 2017; González Vélez and Jaramillo 2017). This article aims to contribute to this field through the study of the strategies of the movement in Argentina. Given that the three types of strategies identified in this article are also present throughout the region, we expect this paper will contribute to the analysis of similar strands of activism in other countries with restrictive abortion policies in Latin America and beyond, as well as of related initiatives at the regional level.

In the first place, the article situates the analysis within the intersection of three fields of scholarship: social movements theories, legal mobilization studies, and gender public policy literature, identifying its contribution to each of them. The second section presents a brief description of each strand of activism within the abortion rights movement in

Argentina and analyzes the relationship of each strategy with the state, the law and legal reform. The conclusion discusses the papers' findings in terms of the implications of each of these strategies for the possibility of legal reform in Argentina and more broadly for the discussion of abortion policies within Latin American feminist movements.

Theoretical perspective

This article is embedded in the intersection of multiple literatures. First, it speaks to the broad field of social movements and its analysis of repertoires and strategies of action. As pointed out by Kutz-Flamenbaum, "strategy" is usually plural, as diverse strategies exist within the same movement, targeting different audiences and with consequences for different time-frames (2012, 298). While strategies are a fundamental element on social movements' struggle for social change, surprisingly scholars have for the most part paid little attention to this field of study (Maney et al. 2012). After some groundbreaking work in the 1970s devoted to analyzing movements' strategies (Gamson 1975; Piven and Cloward 1977; Tilly 1978), scholars moved away from this area of research to focus their attention on developing macro theories on how and when movements emerge (resource mobilization and political process models), with some exceptions (Jasper 2004; Amenta 2006; McCammon et al. 2008; Maney et al. 2012).

In an effort to fill a gap in the literature, more recently Meyer and Staggenborg (2012) have attempted to delineate a theoretical framework to understand and evaluate social movements' strategies. They identify four major elements of strategic decision-making: demands, arenas, targets and scale, which we use in this article to differentiate and analyze the strategies within the abortion rights movement in Argentina. While the first and second strategy present in our case-study (political mobilization, and rights and public health) are more traditional and thus for the most part fit these categories, our third strategy (direct-action and service activism) creates some challenges. The third track emerges with the practical goal of increasing access to abortion by taking matters in activists' own hands even when this defies the official interpretation of the law. By doing so, this strategy can be seen as targeting the state, in that it de-facto challenges the current law, while at the same time replacing it in its duty to guarantee access to health care.

Second, the article engages with the field of legal mobilization. In its narrowest sense, this concept refers to high profile litigation efforts towards social change. In its broadest sense, though, it is understood as the articulation of a movement's aspirations and grievances into a claim that asserts legal rights (Zemans 1983) and has been used to describe "any type of process by which an individual or collective actor invokes legal norms, discourse, or symbols to influence policy or behavior" (Vanhala 2011). Our second strategy (rights and public health) fits the broadest definition of legal mobilization given that, in Argentina, litigation has not been its main tactic, but it has used the human rights framework and the rights discourse to advocate for effective implementation of the current law. In fact, our second and third strands confirm what scholars in the field of socio-legal studies have already stated: social movements are creators of meaning and are active contestants in the dynamic relationship between law and social change (Barclay et al. 2011). Law is fluid and many times indeterminate, allowing movements to provide alternative understandings, which defy mainstream conceptualization. Movements thus produce

alternative interpretations of the existing laws, and do so not only through strategies of legal mobilization (understood in both the narrow and broad sense), but also through direct-action and everyday practices such as those embodied by the third strategy.

Finally, this article is also embedded in the literature of gender public policy and in particular, that of abortion reform in Latin America. This field has explained the lack of progress in abortion reform pointing to numerous factors such as the role of the Catholic Church, that of executive preferences, public opinion and social movements (Shepard 2000; Htun 2003; Blofield 2006; Kampwirth 2008; Sánchez Fuentes, Paine, and Elliott-Buettner 2008; Reuterswärd et al. 2011; Sutton and Borland 2013; Heumann 2014). Within the study of abortion reform movements in the region, there has been an almost exclusive focus on the first strategy (the decriminalization of abortion through a bill in Congress), but not so much on the second one, with few exceptions (Bergallo 2014; González Vélez 2012; Bergallo and González Vélez 2017; González Vélez and Jaramillo 2017). The third strategy has received almost no attention from academic circles yet, neither in Latin America (except from Drovetta 2015; Bergallo and González Vélez 2017; McReynolds Pérez 2017) nor beyond (with the exception of Kluchin 2011; Gomperts 2002). This article begins to fill the gaps in this literature, by addressing three strands of strategies: political mobilization, public health and rights strategy and direct action and service provision, which can be found throughout the region, through a comprehensive study of the Argentinean case.

Three strands of activism for abortion rights and their relationship with the legal system in Argentina

The Argentine law considers abortion at all stages of pregnancy as a crime against life. Article 86 of the Criminal Code, dating back to 1921, establishes that abortion is not punishable only when the life or health of the woman is at risk and if pregnancy was the result of rape. However, even in those limited cases women's access to lawful abortions through the public health system has been virtually nonexistent until recent years, and particularly until the Supreme Court clarified the scope of the law in 2012.³ In this ruling, the Court confirmed the right of all raped women and girls to have access to abortion (conservatives had systematically argued that the rape exception included only those cases that affected mentally disabled women). In addition, the Court compelled the different levels of government to issue protocols for the proper attention of non-punishable abortions and established a series of criteria for the provision of legal abortions by the health system. As a result of this legal framework and its highly restrictive official interpretations, there has been in Argentina an estimated 500,000 illegal abortions per year (*Página/12* 2014a), and unsafe abortions have been the first cause of maternal death in the country (Ramos et al. 2007).

In this context, since the mid-2000s, abortion rights activists have developed three main strands of strategies, oriented to (1) changing the law, (2) ensuring the effective implementation of the indications model through protocols and training within the current legal framework, and (3) providing information and services to all women who decide to have an abortion. We differentiate these three tracks on analytical grounds, although they do not necessarily refer to clearly separated groups: while there are some organizations that identify with one of the tracks exclusively, there is usually some overlap between them and some

of them are part of more than one strategy. However, we believe that the distinction among strategies is useful in that it helps illuminate how different sectors of the movement relate with the state, the current law and the possibility of legal change in a distinct way.

In this section, we describe and analyze each of these strategies within Argentina's abortion rights movement, following the four major elements of strategic decision-making singled out by Meyer and Staggenborg (2012): demands, arenas, tactics and scale, to which we add the time-frame of each strategy (Table 1).

Track 1: the national campaign for the right to legal, safe and free abortion

The most important coalition for abortion rights in Argentina, given the number and diversity of organizations taking part in it and its territorial coverage, is the National Campaign for the Right to Legal, Safe and Free Abortion, launched in 2005. It was developed from within the women's movement, in the context of the National Women's Meetings (*Encuentros Nacionales de Mujeres*), which are the most important instance of women's mobilization in Argentina.⁴ The Campaign adopted the motto "Sexual Education to Decide, Contraceptives to Avoid Abortion, Legal Abortion so as not to Die", which expresses its basic agreements and main demands, and helps to maintain its unity, despite differences among its members on many other issues, and according to a leading activist, it has been one of the Campaign's strengths (Martha Rosenberg, author interview 2013). Nowadays, it is made up of more than 300 organizations, including women's groups, political parties, unions and human rights organizations. It has succeeded in the difficult challenge of pursuing a common struggle among middle-class activists and women from grassroots social movements, professionalized and less-institutionalized groups, as well as of federalizing the movement.

In 2006, the Campaign set out to draft a legislative proposal for the legalization of abortion, which was the first bill submitted by the movement in Argentina, and became its main focus of mobilization and primary strategy. The Bill proposed the legalization of abortion at the woman's demand during the first twelve weeks of pregnancy, as well as

Table 1. Abortion rights' movement strategies in Argentina.

	Track 1: National Campaign	Track 2: Public Health and Rights Strategy	Track 3: Direct action and service provision
Demands/goals	Legal reform: Legal safe and free abortion at women's request during first 14 weeks	Implementation of current law: Ensure access to non-punishable abortions.	Provide information and services for all women who want an abortion
Tactics	Institutional: bill, legislative lobby. Non-institutional: demonstrations	Institutional: technical collaboration with state bureaucracies in drafting health protocols, workshops for legal agents	Institutional and non-institutional: spread of information, hotlines, doula services, abortion provision. Create new legal interpretations through praxis
Arena/target Scale	Congress National	State bureaucracies and Courts National and provincial	Society Initially local, but growing to a national network
Time-frame	Long term	Medium term	Short and long term
Main organizations	National Campaign for Legal, Safe and Free Abortion	CEDES and feminist legal and public health experts	Lesbianas y Feministas por el Derecho al Aborto, Socorristas en Red, Red de Profesionales por el Derecho a Decidir

the state's obligation to provide free access to legal abortion services.⁵ On May 28, 2007, sympathetic legislators introduced the Campaign's bill to the Deputies Chamber. On November 1, 2011, the bill was discussed for the first time at the Committee on Criminal and General Legislation, which carried out two congressional public hearings on the issue.⁶ Due to legislative inaction, and to prevent it from losing parliamentary status, the Bill had to be re-introduced seven times, the last one being March 2018, when it was finally made part of the legislative agenda. In 2016, the Campaign included some changes to their bill such as extending the time in which a woman can freely decide to have an abortion from 12 to 14 weeks, and explicitly mentioned that abortion is also a right of trans persons (Alanís, author interview 2016). Up to June 2018, the project had never been discussed in plenary session.

The Campaign for abortion reform constitutes a traditional movement strategy in which the goal or demand is legal reform and the arena or main target is Congress.⁷ The tactics used to advance legal change are both institutional (the drafting and introduction of a bill in the national legislature, lobbying legislators to support the bill and introducing it in the political agenda), and non-institutional (demonstrations to mobilize public support for the proposed change in an effort to attract politicians' and society's attention and influence their positions on the issue). The scale of this strategy is national. The campaign is a federal endeavor and organizations from across the country take part in it. There is an annual plenary session in which organizations are invited to discuss the status of abortion reform, suggest revisions to the bill and propose new actions to advance their goals (Schwartzman, author interview 2012). It is a long-term strategy: it pushes for an ambitious legal reform, with demands regarding how abortion should be made available in the country in the long run. The presence of the Campaign has changed the context of the abortion rights struggle in Argentina, which has fostered the other two strands of strategies. It has placed the abortion issue on the public agenda, in a way that has made it unavoidable by politicians and public officials. Furthermore, its federal character has provided for the first time a national platform for abortion rights activists throughout the country.

Track 2: public health and rights strategy: toward the effective implementation of the abortion law

What this article characterizes as public health and rights strategy involves diverse efforts by feminist lawyers and public health professionals, who intend to increase access to abortion within the current legal system and fight its conservative and restrictive interpretations. The main actors pursuing this strategy have been the Center for Studies on State and Society (*Centro de Estudios de Estado y Sociedad*, CEDES), particularly its division of Health, Economy and Society, as well as external professionals and advocates working with this organization. Within this track, there have been multiple initiatives: the drafting, together with government agencies, of health protocols to guide the implementation of the abortion laws within the public health system; the training of personnel of the judicial branch on the interpretation of the current legal framework to protect women's rights, and the creation of a federal network of feminist lawyers working on reproductive rights.

This is the track that has worked more closely with government agencies. Many of these activists have been able to establish close links with bureaucracies and professionals in health ministries, the public health system, and judicial branches at the national and provincial levels.⁸ This relationship has increased their impact, evidence of which can be seen in their participation in the drafting of government documents and the appearance of their legal arguments in judicial rulings (Bergallo, author interview 2014). During the presidency of Néstor Kirchner (2003–2006), the abortion issue became for the first time part of the government's public health agenda. Then Minister of Health Ginés González García made maternal mortality a priority, argued that the criminalization of abortion was one of its causes, and defined reproductive health as a main pillar of the public health policy (Petracchi and Pecheny 2007). The Minister started working with feminist lawyers and public health experts linked to CEDES in the development of a guide for the provision of legal abortions by the public health system. The Guide, which was released in 2007 (as well as its 2010 and 2015 revised editions), embraced the World Health Organization's comprehensive definition of health, including a broad definition of psychological health, and explained in detail how to interpret article 86 of the criminal code. Significantly, it concluded stating that “the women's decision over what kind of risk she is willing to run is the decisive factor in the decision to request a legal interruption of the pregnancy” (Ministerio de Salud y Ambiente 2015).

This second track has as its goal the implementation and enforcement of the current legal framework in a way that all cases covered by the law receive access to a legal abortion without obstacles or delays. This strategy is inscribed within the *Causal Salud* (health exception) coalition, which is a regional development promoted mostly by Colombian and Mexican activists since 2007, aimed at advancing a broad interpretation of this exception throughout Latin America, grounded on a human rights framework (see González Vélez 2012; González Vélez and Juanita 2008). The arena or target of this strategy is multiple: groups within this track aim to influence doctors and legal actors who act as gatekeepers to abortion access. At the same time, they target national and provincial Health Ministries to push for the drafting and implementation of programs and protocols to regulate access to abortion in their districts. The tactics they develop are those of technical collaboration with government agencies, the development of documents that seek to influence public policy, and the organization of workshops and training sessions for doctors and lawyers on these topics. This track, while part of the movement for abortion reform, takes on a more technical and professionalized strategy based exclusively on institutional tactics. Instead of mostly demanding change from the legislature, they attempt to create links with governmental agencies, courts and hospitals in order to collaborate with them to achieve the desired policy changes. This strategy has been carried out both at the national and provincial level, depending on how receptive government authorities were in each case. Feminist advocates working within this track explain that they see gradualism and working for the implementation and widening of the indications or exceptions as a way to achieve legal reform. Bergallo (author interview 2013) observes that it is necessary to work with two agendas: non-punishable abortions and legalization, as shown by the cases of Spain, Mexico, Colombia and the United States, where legalization was possible after going through an indications model. In the same vein, González Vélez (author interview 2013) states: “the indications model is not my political ambition as a feminist, but it prepares the terrain, its implementation changes women and doctors.”

Track 3: direct-action and service provision

The third track, which we call direct-action and service provision, is aimed at making safe abortion available to women with unwanted pregnancies. Its focus is not on legal change but to increase access on the ground for all unwanted pregnancies, regardless of the official or mainstream interpretation of the current legal framework. There are two main lines of work within this group: (1) hotlines and websites, and abortion doulas, and (2) provision of legal abortions by doctors through a broad understanding of the health exception. Inspired by earlier similar experiences in Europe and the United States in the 1960s and 1970s, when abortion was still banned, these groups are able to reach many more women than their predecessors given the recent availability of abortion with medication. The right to information protects their actions. When questioned about the legal status of their work, they point out that in Argentina it is legal to transmit and receive information in general (and abortion is no exception), and that they are protected by that right. In addition, they argue that this is public information that anyone can search on the Internet (Sánchez, author interview 2013). Furthermore, when doctors use a broad definition of the right to health, including an interpretation of psychological health that allows for the practice of abortion under all circumstances, they are interpreting women's rights in line with the directives of the World Health Organization's comprehensive definition of health (which has been incorporated in health protocols in the country), as well as with the resolutions of human rights treaties bodies (and in Argentina, human rights treaties have constitutional hierarchy, constitutional article 75.22). Thus, even when feminist activists and health professionals in Track 3 are indeed defying the official interpretation of the current law, they understand their own practices as complying with legal norms.

The first line of work consists in initiatives that ensure women with unwanted pregnancies have access to accurate information on how to self-induce an abortion with medication in a safe way. This initiative was first advanced by *Lesbianas y Feministas por el Derecho al Aborto* (Lesbians and Feminists for the Right to Abortion), which on July 30th, 2009, launched the first hotline in the country to offer information on how to procure a safe abortion with medication.⁹ More recently, the initiative was embraced also by *Socorro Rosa* (Pink Rescue), and even some political movements (*Movimiento Evita*)¹⁰ and political parties (*Nuevo Encuentro*).¹¹ *Socorro Rosa* was launched in 2010 by a group of feminist activists from *La Revuelta* in the city of Neuquén (Zurbriggen, author interview 2014). They are now present in more than 40 cities throughout the country (see *Socorristas en Red* website). In 2013, they created a network called *Socorristas en Red*. While their service is also based on a hotline that provides information about safe abortions, they added a new element to the previous experiences: they accompany women in the process of making the decision, as well as during and after the abortion.¹² In 2015, the *Socorristas* accompanied 2894 women across the country. *Lesbianas y Feministas* received approximately 10,000 calls between 2009 and 2012 (*Lesbianas y Feministas 2012a*).

The second line of work within this track has been developed by the group *Profesionales de la Salud por el Derecho a Decidir* (Health Professionals for the Right to Choose), a group of health professionals providing medical and manual vacuum aspiration abortions for free in public and private clinics. Doctors, nurses and psychologists involved in this strand of activism use the current legal framework, in particular the health exception,

in a way that – in their view – allows the provision of legal and safe abortion to all women who request one. Drawing on the National Health Ministry Technical Guides for the provision of legal abortion, this group has defined all unwanted pregnancies as a threat to a woman’s psychological health (Rodríguez, author interview 2016). While some of these health professionals have been offering these services in their places of work since around 2010, it was in 2014 that this group came together to formalize their activism and launched this organization. They are currently around 500 doctors, nurses, psychologists and social workers, who are gradually beginning to train other health professionals interested in joining their efforts.

Even though some of these health professionals carry out these actions as part of their work at public health institutions, and are thus part of the state, through their actions they are actually challenging the official interpretation of the current legal framework. While these professionals are implementing the Protocol drafted by the Health Ministry, and in doing so, they are following government policy, they are pushing the protocol to its broadest interpretation of the health clause. The fact that the protocol states that risk to psychological health could be a reason for requesting a legal abortion does not equal in the minds of all doctors that all stress and anguish experienced by an unwanted pregnancy justifies a legal abortion. These doctors stretch the concept of risk to psychological health in a way that equates the provision of abortion under the indications model with that of abortion on demand (which is criminalized in this country), thus proposing a more radical implementation of the current norms.

While the scale of the activism by all groups within the third track was initially focused on the local level, they have quickly expanded, with some of them (mostly *Lesbianas y Feministas* and *Socorristas*) having reached some presence throughout the different regions of the country. While a quick analysis might conclude that their goal is limited to the short term – to attend to the urgent need of safe abortions – all the groups have defined their practice as one with both short and long-term goals. They share the understanding that their direct-action not only solves the issue of lack of safe abortion right now, but also has a wider target: society as a whole. In this sense, they do align with the definition of social movements, which attempt to change if not state policy, society’s values. Their long-term goal is to de-stigmatize the practice of abortion, to challenge the notions of abortion being a crime and one that always leaves women with regrets and a feeling of anguish. They want to center the practice of abortion around women and give them control over their decisions and actions. These groups have strongly contributed to the process of de-stigmatization and demystification around abortion that is happening within Argentine society (Cartabia, author interview 2016).

However, there are also differences in how various activists explain how their direct actions relate to the role of the state and the need for legal abortion reform. There are those within *Socorrismo* who see their activism as having multiples goals. Activist Ruth Zurbriggen says that their work “is a political tactic for the meantime (until abortion is legalized) but also for when it becomes legal in the country” (*Página/12* 2013). They see themselves as preparing the terrain for the legalization of abortion by way of distributing information about safe abortion, creating statistics about the situation of abortion in the country, forging links with friendly doctors and health services and de-stigmatizing the practice (Grosso, Trpin, and Zurbriggen 2014). The *Socorristas* are part of the Campaign for abortion reform (Track 1), but they felt the need to embrace another type of

commitment towards women: “Being part of the demand (for legal abortion reform) within the Campaign is not enough for us” (Grosso, Trpin, and Zurbriggen 2014, 403). “It is not enough that the laws recognize our rights if we lack the freedoms to plan our life with autonomy” (Grosso, Trpin, and Zurbriggen 2014, 445). They believe that by providing women with the information and accompaniment to produce their own abortions they are challenging the current legal framework in order to advance legal reform. The *Socorristas* clearly define their direct-action as political, they question conventional social understandings and the state and purposefully demand the change of the current law (Zurbriggen, author interview 2014).

Lesbianas y Feministas have a different understanding and relationship to the current abortion law. They have never been part of the Campaign and they are more skeptical of legal reform. They believe the current bill proposed by the Campaign reinforces the patriarchal and hierarchical medical system that disempowers women. They are particularly critical of one of the Campaign’s slogans “legal abortion in the hospital”, since it seems to invisibilize the rich experiences that women gain by taking abortion in their own hands (Sánchez, author interview 2013). The Campaign’s bill restricts the provision of abortion to the medical profession. This is experienced by many activists as moving backwards: the increased regulations ignore the work carried out by the Track 3 in terms of centering the practice of abortion around women, empowering them and removing abortion from the domain of doctors and hospitals. This is one of the main issues of contention between some actors within this line of activism and the Campaign: “If labor is not regulated and I can deliver a baby at home, the same should apply for abortion ... The medical system is at the center of violence against women, so why should we place abortion there?” (Cartabia, author interview 2016).

Lesbianas y Feministas clearly state how they relate to the need of legal reform in the title of the 2012 annual report of their activities: “Women have already decided abortion is legal” (*Lesbianas y Feministas* 2012b). For them, it is the praxis of abortion by women that makes the practice legal; this is a battle that is fought and won on the ground, not in Congress or in courts. In a newspaper interview, one of the group’s leaders stated: “(Our work) is proof that abortion is now a right” (*Página/12* 2013). The same vision is shared by some within *Profesionales de la Salud por el Derecho a Decidir*. When women go to a public hospital or private clinic and meet with a doctor from this line of activism, women are told that what they are doing is legal (author observation in clinics in Buenos Aires, 2016). Doctors ask women about the reasons for requesting an abortion to see if they align with the legal exceptions. They read them the WHO definition of health, the Health Ministry Technical Guide, and explain that all unwanted pregnancies followed by anguish and distress represent a risk to their psychological and comprehensive health. Women are empowered by this experience, they feel relief by knowing that what they are doing is legal (Berra, author interview 2016). In this way, doctors and the women receiving the abortion are redefining the legality of the practice.

Despite some differences within these groups, the work of this track as a whole is removing abortion from clandestinity and placing it in a semi-public space, different from the back-alley abortion market. In this way, by de-facto defying the limits of what is legal they somehow normalized the practice. There is practically no secret surrounding their work: women meet in public spaces to discuss the use of misoprostol or go to public hospitals or private clinics and request what sympathetic doctors define as “legal”

abortion. *Lesbianas y Feministas* and the *Socorristas* organize public press conferences to report on their activities. They have been interviewed by national newspapers numerous times. *Lesbianas y Feministas* have even made a presentation at the National Congress building. Activists have publicly admitted to have had abortions.

In contrast to these activist practices, the traditional clandestine abortion provision does not challenge the current legal framework, because it operates outside the radar of the law. If clandestine practices affect the law at all, they do so by reinforcing existing legal restrictions, in at least two ways: (a) by allowing more affluent women, even conservative ones, to have access to safe abortions, they prevent the generalization of the demand for legalization among women from all social sectors; and (b) by creating economic incentives for doctors and other actors within the black market, they constitute a further obstacle for legalization. In contrast, the provision of information and access to abortion services by committed activists is done through a discourse about the law that publicly defies hegemonic interpretations, as well as through the creation of an abortion provision field that, while not totally open, is at the same time not clandestine, which makes patent the actual ineffectiveness and lack of enforcement of the criminal law. In this way, this strand of activism has produced a profound impact in terms of the legitimation of the practice, which has contributed to create conditions for legal change.

Conclusion

The analysis of the abortion rights movement in Argentina shows that, in the context of a restrictive and resistant-to change legal framework, when reform through the legislative body was elusive, the movement diversified its strategies, and developed three strands of activism, which differ along the lines proposed by Meyer and Staggenborg (2012) for the study of social movement strategies. Each strand presents its own specific goal, tactics, target, and time-frames, as well as its specific standing vis-à-vis the law. While Track 1 reflects a traditional way of interaction between social movements and authorities to advance legal change in their area of interest: political mobilization to pass a bill in Congress that will address their demands, Track 2 proposes a medium-term strategy working closely with government agencies from a technical perspective to ensure access to those abortions that are already legal. Track 3 defies our usual understandings of the interaction between social movements, the state and legal change. Its direct actions imply, in fact, a challenge to the law, which occurs through a praxis that defies mainstream interpretations of the law – sometimes even working within public institutions – and through different means: action and not discourse or political and legal argumentation. Through these actions, activists pose a new interpretation of the law that de facto challenges the hegemonic meaning of norms and, thus, might arguably contribute to create momentum for changes in the legal framework.

The study also shows that while the three tracks differ in all the analyzed dimensions, their interaction throughout the years ended up creating a positive synergy that reinforced each of these strands. By opening a new space for public discussion and exerting pressure on the political system, the National Campaign has created the conditions for the advancement of the legal strategies regarding the implementation of the current abortion law. Its federal character has also fostered the organizing and coordination of direct-action and service provision strategies in different cities across

the country. For its part, Track 2 provided the legal arguments and documents that Track 3 needed to justify and support their direct actions. This is clear particularly in the case of *Profesionales de la Salud por el Derecho a Decidir*, who rely on the Health Ministry protocols providing a broad interpretation of the health exception to guide their practice. Moreover, the second and third tracks, by taking the concrete practice of abortion away from its previous exclusively clandestine space, have not only granted access to safe abortion to many women so far under the current law, but have also created a concrete field of experiences with abortion provision that constitutes a precedent for legal change, and may in turn foster the effective implementation of services once legalization takes place. The synergy created by the interaction of the three strategies renewed and strengthened the movement for abortion rights allowing for the issue to enter the congressional agenda in 2018 even under an administration headed by an anti-choice executive.

Furthermore, the different views expressed by the organizations represented in each track, and even within each of the tracks, have contributed to the advancement of a sophisticated debate about what kind of abortion regulation should the movement embrace. The debate around the desirability of legal change that many activists within the third track have introduced in the abortion reform movement in Argentina has brought new ideas and visions to what seemed to be a settled issue until recently within the movement: legal reform based on trimesters, and access to services through the public health system as the main goal.

In particular, activists within the third Track have contributed new and creative ideas to the struggle for access to abortion. Their criticism of more traditional movement's strategies has been a significant contribution to the renewal and re-energization of the movement. Their direct-action tactics have centered abortion around women's experiences, aiming at de-stigmatizing the practice, removing it from the medical system that in their view has been controlling women's reproductive lives for so long. In this sense, before the abortion debate began in Congress in April of 2018, some activists were thinking about a total deregulation of the practice in which women could provide their own abortions without state intervention in the process. However, once the legislative debate began, almost all actors from the three strands of activism closed files behind the Campaign's bill and unified their voices to demand its approval. In light of the bill's rejection in the Senate, it will be interesting to follow discussions within feminist organizations and see whether this unity will be strengthened in order to give the Campaign's bill another chance in Congress, or on the contrary, whether this failure will revive previous disagreements about the best way to regulate or deregulate abortion. One thing is sure: the legislative debate brought with it much more awareness and knowledge about abortion and also about what groups within the third track are doing. The legal debate has increased the reach of these groups as never before, making it possible than more women will find a safe, though still illegal, way of interrupting an unwanted pregnancy if they decide to.

A final area of inquiry has to do with the reaction of the state, or lack thereof, to these direct action strategies. These groups have removed abortion from a place of secrecy and criminality and have placed it in a semi-public space. While it is true that not everybody in the country knows about these organizations, their networks and influence are definitely growing, as indicated by their statistics, reports and expansion throughout the country.

Have these practices already become a competing de facto interpretation of the otherwise hegemonic understanding of article 86 of the Penal Code? When would we be able to establish that this grassroots challenge has become large enough so as to become a competing interpretation? Furthermore, the fact that the state has for the most part not prosecuted or reported their activities implies a tacit tolerance of these practices in the public realm. What does this mean for the letter of the law? Despite this general inactivity from the part of the state, activists and doctors are exposed to risks as long as the practice is not legalized in the country. Most significant in these regards is the case of a 17-year-old woman who, in August of 2017, requested a legal abortion in a public hospital in the Southern province of Chubut, and died six days after the procedure. While there was no evidence that the abortion was the cause of her death, a judge condemned the medical resident that provided the abortion to one month in jail and the inability to practice her profession for one year, in what women's organizations interpret as a disciplining measure against doctors (*Página/12* 2017). The larger exposure that the groups from the groups had after the congressional debate might bring more legal challenges to their activities in the future.

Finally, beyond the specificities of the Argentinean movement and its context, the analysis presented here is relevant to other countries with restrictive abortion legislations in Latin American cases and beyond, and even regional initiatives for the advancement of abortion rights. Similar strategies have been deployed in other countries and there are networks that link these national initiatives throughout the region, creating spaces for activists to share their experiences, interact and learn from each other. The National Campaign for Safe and Legal Abortion in Argentina is part of a broader regional network of abortion reform that since 1990 gathers different national legal change campaigns under the umbrella of the "September 28th Campaign for the Decriminalization of Abortion in Latin America and The Caribbean".¹³ For their part, the strategies within Track 2 in Argentina have been developed within a regional coalition (*Causal Salud*) devoted to expand the interpretation of the health exception. Finally, abortion hotlines have been contemporarily developed in numerous Latin American countries including Ecuador, Chile, Peru, Venezuela and Brazil (Drovetta 2015; McReynolds Pérez 2017). The variety of strategies developed by abortion rights activists throughout the region makes Latin America an important case for the analysis of women's movements and their diverse relationship with the state and the law, and the study of Argentinean case offers significant clues for their assessment.

Notes

1. These changes include the divorce law (1987), a gender quota law (1991), a Sexual and Reproductive Health Program that grants access to contraceptives (2002), a law on violence against women (1994, reformed in 2009), and a Criminal Code amendment to include femicide as an aggravated type of homicide (2012).
2. Traditionally, doulas have been women that support other women during labor and childbirth through different ways: pain management, relaxation techniques, emotional support and compassion. More recently, doula services have been extended to all events of women's reproductive life, including abortions. Since then, the term 'abortion doula' has been used to refer to those that offer emotional and compassionate support to women having this procedure.

3. Supreme Court, *F. A. L. s/medida autosatisfactiva*, Expte. 21912, March 13, 2012. The full text of the Decision is available at: <http://www.saij.gob.ar/corte-suprema-justicia-nacion-federal-ciudad-autonoma-buenos-aires--medida-autosatisfactiva-fa12000021-2012-03-13/123456789-120-0002-1ots-eupmocsollaf>.
4. The Women's Meetings, which started to be held in 1986, are pluralistic and massive instances of participation of women from diverse sectors and organizations, not only feminists, from all over the country. They take place every year in a different province, gathering around 90,000 participants in the latest ones.
5. The text of the bill can be found at: <http://www.abortolegal.com.ar/wp-content/uploads/2011/08/Fundamentos-y-Proyecto-Ley-IVE.pdf>.
6. The first public hearing took place on November 30, 2010, and the only presenter was Marianne Mollmann, legal advisor of Amnesty International. The second hearing was carried out on July 13, 2011, and the sole presenter was Luz Patricia Mejía, then Special Rapporteur of the IACHR for women's rights for Argentina, Bolivia and Ecuador.
7. Even though the Campaign's main focus has been on changing the abortion law, it has also demanded the effective implementation of the current indications model. One of the most successful actions in this regards was the claim against the Argentine State before the United Nations Human Rights Committee in the case of a handicapped girl who had been denied an abortion after being raped, which was carried out by organizations linked to the National Campaign (*L.M.R. c/ Estado Argentino*, Communication No. 1608/2007. UN Doc. CCPR/C/101/D/1608/2007).
8. Argentina is a federal country divided in 23 subnational units called provinces, and the Autonomous City of Buenos Aires.
9. The information provided is in line with the World Health Organization's website and describes how to have an abortion with misoprostol. In their leaflets, books and websites they are clear about what they do and do not do: "We are not doctors nor do we replace them. We communicate updated information from medical, scientific, and public sources so that women can make informed choices and care for their health" (*Lesbianas y Feministas 2012a*, 12). Their website, called *Línea Aborto: más información, menos riesgos*, is one of the main means for their work and communication.
10. The *Movimiento Evita* is a social *piquetero* movement associated with the Peronist Party. It was launched in 2004. '*Piqueteros*' is the name given to movements of unemployed workers that in the 1990s began blocking highways as their main means of protest.
11. *Nuevo Encuentro* is a leftist political party allied with the peronist party *Frente para la Victoria* (FPV). They opened '*consejerías*' (information centers) for safe legal abortion in 2014. In the city of Morón, governed by this party, this information is provided in the public health system. See *Página/12 2014b*.
12. After they receive a call they organize a meeting in a public space (usually a café or a square) with 3 or 4 women who are thinking of interrupting their pregnancy and one of the *socorristas*. They read the leaflets on how to use misoprostol together and sort out any doubts women might have. After this meeting, they stay in touch with these women by phone and sometimes they visit them for around 20 days (Grosso, Trpin, and Zurbriggen 2014).
13. The Latin American Campaign was launched at the V Regional Feminist Meeting (*Encuentro Feminista Lationamericano y del Caribe*) in San Bernardo, Argentina, 1990.

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