Dear PPW colleagues,

This manuscript derives from my dissertation project on marriage equality discourse in Argentina and the United States, and my goal is to submit it for publication as a journal article. I would be grateful for your feedback on ways to improve it toward that end. Note that it’s not terribly short, so ideas on cuts are welcome as well!

Also note that all of the figures use color, and without it you might have trouble making sense of them – so if you print it out, you might want to take a look at those on the computer.

Thank you,

Julie
Talking About Marriage Equality: Constructing State-Society Relationships in Argentina and the United States

Julie Hollar

On July 15, 2010, after more than 14 hours of debate, the Argentine Senate passed a law that made the country only the tenth in the world—and the first in Latin America—to permit same-sex couples to marry. Buenos Aires, the country's capital, had passed a civil union law in 2002, but activists had not even begun to campaign for a nationwide same-sex marriage law until 2006. The issue went from unthinkable to law in less than four years.

Further north, US activists brought the issue into the national spotlight two decades earlier, winning their first favorable court ruling on same-sex marriage in Hawaii in 1993. That case, however, sparked a massive nationwide backlash against same-sex marriage that began with passage of the federal Defense of Marriage Act (DOMA)—intended to prevent recognition of such marriages—and continued for some 15 years, as the majority of states passed anti-same-sex marriage laws and constitutional amendments. At the moment when Argentina made same-sex marriage a national law, only five US states recognized such unions. But finally the tide began to turn, with more and more state legislatures and courts permitting same-sex marriages, and in 2015 the US Supreme Court ruled that all states must conduct and recognize same-sex marriages.

The final outcomes of the two stories appear to be exactly the same: same-sex couples received full legal recognition of their marriages. And yet the political and historical contexts in which those policy outcomes were achieved are very different. How can we understand the same political change coming about in dissimilar places? And what do those different paths mean for LGBT people and state-society relations more broadly?

Addressing these questions, I will argue, requires looking at how meanings are made. The global same-sex marriage revolution has largely taken place not on the streets, but in conversation. To be sure, activists—and their opponents—have marched and protested, but as with many social movements in democratic states today, discursive battle through mass media (old and new) is critical to changing people's perceptions and opinions. And yet social movement studies to date have specified very little about how, exactly, such change happens, or what its broader effects are. By comparing lesbian and gay activists' campaigns for marriage rights in Argentina and the United States, I aim to elucidate the discursive mechanisms that make such change thinkable and, in so doing, shape not just the identity and future of each movement, but also broader relationships between state and society.

I will argue that deeper understandings of contentious political processes require a shift from asking not just why something happened, but how it was made possible. In other words, to understand how marriage rights campaigns succeeded in both Argentina and the US, we ought to investigate not just the conditions under which the policy change happened, but also the process by which changes in the identities, roles, and responsibilities of lesbians and gays and the state were produced such that new relationships among them became conceivable. From this angle, I propose that actors make change thinkable by discursively constructing new relationships between marginalized people and the state; because sets of actors and their political context vary across cases, how this mechanism of subject construction plays out will likewise vary. While those divergent trajectories might result in the same policy outcome, they will lead to different
relationships between marginalized groups and the state, which in turn set up new and divergent sets of possibilities for subsequent political claim-making.

In Argentina, actors focused on constructions of the state and its responsibility to its citizens and their rights. In the United States, actors focused on constructions of lesbians and gays as similar to and sympathetic to heterosexuals. As a result of these differences, the marriage equality debate in Argentina produced a stronger foundation for increasing the rights of transgender and other marginalized groups, whereas the US debate produced narrower discursive leverage for further extending rights to others.

The paper will proceed as follows. First, I explain the different trajectories of change marriage equality took in Argentina and the United States using structural variables. I then explain the shortcomings of this method as well as of the literature on framing, and I suggest the mechanism of *subject construction* to analyze how meanings changed in the marriage equality debates. After describing my data and methods, I lay out a comparative analysis of subject construction of the state and of gays and lesbians in Argentina and the United States, concluding with some brief thoughts about future implications.

I. Explaining policy change

Existing research indicates a handful of variables influencing the possibility of enacting marriage equality in Argentina and the United States: the strength of the opposition, political structure, and political alignments. Together, these can help us understand *why* Argentina moved more quickly on the issue than the United States, and they give us a starting point for teasing out a deeper understand of *how* those changes happened.

In the United States, the Religious Right was a formidable opponent to gay rights activists. In 1977, Anita Bryant led a successful church-based campaign to repeal an anti-discrimination law in Dade County, Florida, that protected people based on sexual orientation. The campaign attracted national attention and Bryant used church networks to expand antigay activism around the country. This activism grew into a nationwide conservative religious movement that gained significant influence in the Republican Party and took antigay and antichoice activism as its central organizing issues. When a Hawaiian court ruled in 1993 that it was discrimination to refuse marriage licenses to same-sex couples, the Religious Right quickly mobilized, outmatching gay and lesbian activists in terms of organization and resources (Fetner 2008). Successes on marriage equality only really began building as the Religious Right’s influence began to fade, marked in part by the 2008 end to Republican control of the White House.

This points to the second factor slowing marriage equality in the US: an unfavorable political alignment. With the help of the Religious Right, the Republican Party dominated federal politics for more than ten years after same-sex marriage became a political issue, making Congress inhospitable for gay and lesbian activists. At the state level, Republicans have held a slight advantage over the past 20 years as well. Meanwhile, with no viable third parties in the US system for lesbian and gay voters to defect to and polls not showing majority support for same-sex marriage until after 2010, Democrats saw little incentive to push legislation. Legislative advances, whether at the state or federal level, were thus difficult to achieve.
Finally, US federalism and the possibility in many states of putting marriage rights to a public vote put marriage equality activists at a disadvantage.\(^1\) Because marriage is primarily regulated at the state rather than federal level, the movement had to spread itself thin fighting multiple battles (Smith 2008), often having to target their messages to the public, legislators, and the courts at the same time.

The Argentine LGBT movement’s primary opposition has also been religious, but coming from the Catholic Church, whose longstanding power in Argentina began weakening before the marriage equality movement began. Notably, activists’ first same-sex union success—the Buenos Aires civil union law of 2002—was passed during a time when the Catholic Church was under intense scrutiny for two separate sexual abuse scandals. The Church mustered virtually no opposition to the bill, which passed by a margin of 29 to 11 (Diez 2013). The Church’s influence has also suffered due first to its ties to the discredited dictatorship and later to its feuds with Nestor Kirchner and Cristina Fernández de Kirchner, who in successive presidencies have sought to increase the state’s independence from the Church.

The political alignment in Argentina during the marriage equality campaign likewise benefited activists. After a decade of weakness under president Carlos Menem’s neoliberal presidency, the left surged in the early 2000s in a context of total economic collapse. The national political scene has been dominated for the last 10 years by the Kirchners’ center-left coalition, Frente Para la Victoria, which has a strong human rights focus. There are more than 20 political parties represented in Congress, including Socialist parties that have historically supported LGBT rights. Conservative parties and those strongly influenced by the Catholic Church, meanwhile, have been weak, leaving fewer legislative obstacles to marriage equality’s victory than in the United States.

II. Framing and Subject Construction

All of the preceding explanations could be classified as differences in political opportunity structures (POS). POS theory views changes in structural elements—the “political opportunity structure” confronting activists—as shaping whether a social movement can arise and sustain itself (e.g., Tilly 1978, McAdam 1982, Tarrow 1998). These elements clearly have an impact on marriage equality outcomes, yet none of them explain how expanding marriage to incorporate lesbians and gays became thinkable in the first place in each country, nor do they help us understand the new political meanings produced by discourse around the issue.

Framing theory, which draws from Goffman’s idea that people make sense of their world through frames that focus attention on certain elements while excluding others (1974), suggests that activists and their opponents use frames to mobilize supporters by diagnosing a problem, proposing a solution, and motivating participants to act (Snow et al. 1986, Benford and Snow 2000). However, the theory has largely focused on mobilizing movement participants rather than changing public discourse and thinking around an issue more broadly. Moreover, there has been surprisingly little systematic comparative research done on the impact of framing (Polletta and Ho 2006, McCammon et al. 2007, Snow et al, 2014). Finally, framing has come under criticism for taking frames as static rather than analyzing framing as a contested process (Steinberg 1999, Polletta and Ho 2006, Krinsky 2010, Snow et al. 2014). These critiques reveal that how exactly framing might work remains underspecified.

\(^1\) On other aspects of US federalism and the policy process that work to slow social movements’ gains, see Meyer (1998) and Soule and King (2006).
Ferree, Gamson, Gerhards and Rucht (2002) argue that framing processes operate within a “discursive opportunity structure,” the playing field that differentially constrains and enables actors attempting to dominate public discourse about policy issues. In this paper, I draw upon the idea of a discursive opportunity structure, but rather than focus on its effects on marriage equality debates in Argentina and the United States, I examine its construction. Certainly, pre-existing differences in political cultures will help shape discourse. But where groups claim new rights, one would expect that the discursive playing fields themselves could become the objects of contention rather than simply fixed constraints. Understanding how these playing fields change—and therefore what direction future challenges might take—requires attending to the discursive strategies taken by activists and other actors over time.

In getting underneath political or discursive structures to answer how discourse produces changes in meaning, I attend specifically to the construction of the state, its citizens, and the relationship between them, building on Doty’s concept of subject construction (1993). In making claims about marriage, actors make claims about what the state is, who groups of marginalized citizens like gays and lesbians are, and what their relationship is to each other; in so doing, they establish what actions each should take towards the others, thus making certain policies seem possible or even necessary. Subject construction works both by characterizing a subject and by positioning that subject with respect to others; in other words, actors make claims about both who subjects are or ought to be and what their relationship is or ought to be with respect to others.2

Subject construction is sometimes quite explicit, as in logical arguments such as, “Gays are good, loving, contributing members of society.” But sometimes it is subtler, supplying character development in a narrative: “Until recently, Ed Galloway and Gordon Kahn led a quiet life, as quiet a life as one could hope for a couple with three young children, a dog, a warmly chaotic apartment on the Upper West Side and a small architecture firm to run” (New York Times, February 14, 2014). As in the logical argument, the gay couple here is constructed as good and contributing (by raising children and running a business); they are also constructed as mainstream and non-threatening. Non-LGBT people are an implicit subject here, as they are meant to identify with the gay men, thus positioning the couple as equal to that audience and deserving of the same life possibilities. Characterizing and positioning subjects can therefore overlap within the same claim. Together, they work to construct ideas of who subjects are and how they should act with respect to each other. Conceiving of subject construction in this way helps to address the tendency of the framing literature to be overly logical. It also helps bridge the framing literature with the literature on social movement narratives (e.g., Davis 2002, Polletta 2006)—which contrasts the more complex structure of narrative (plot, characters, and crucial silences that the audience must fill) with the logical arguments typically assumed or described by frame analysis—suggesting that both can and do take place side by side.

These constructions ultimately shape how proper state-society relations are understood. In the case of a marginalized population seeking protection from the state, those opposed seek to maintain the status quo: the marginalized group remains marginalized, outside the protection that the state grants full members of the polity. In order to maintain that status quo, they typically construct the group as a threat to or significantly different from society, and thus needing to remain isolated by the state. Those seeking to change the status quo can take two main paths with

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2 These two modes of subject construction correspond to Doty’s submechanisms of predication and subject positioning.
subject construction. First, they can work to move lesbians and gays from their marginalized location outside the polity to a location within the polity, receiving state protection. In other words, it is lesbians and gays who are responsible to change as subjects, assimilating into the protected polity. Second, they can work to expand the state’s reach to include the excluded group (See Figure 1).

Figure 1: Subject Construction in Movements for Inclusion

While these paths might sound similar, the distinction is important. In the second path, it is primarily the state that changes as a subject, growing in scope and authority, whereas lesbians and gays might maintain their distinct identity and minority status. Of course, subject construction can and often does follow both strategies at the same time—no one actor or group controls the process, and within the broad categories of those speaking in support and those speaking in opposition, one would expect a diversity of viewpoints and strategies—but differences in the directions taken shape the state-society relationship beyond the battle for one particular group.

In Argentina and the US, opponents construct lesbians and gays as a threat to society and the state as exceeding its authority in trying to admit them into the polity. However, I show that supporters follow divergent paths. In the US, their discourse focuses more on reconstructing lesbians and gays and their relationship to society, whereas in Argentina, the discourse focuses more heavily on reconstructing and expanding the scope of the state. What this means is that while both ultimately succeed in making marriage for same-sex couples thinkable, the
reconstructed relationships in the US reinscribe a path to rights based on assimilation. In Argentina, the state’s role as protector of minorities and its authority over societal institutions (vis-à-vis the church) has increased, which should facilitate other groups’ entrance into the polity. In other words, the two states took different paths to reach marriage equality, rendering its meaning and implications distinct in each state.

Finally, claims might be made repeatedly by one actor, but this does not mean that claim will be viewed as persuasive or that it will become a dominant discourse; that can only happen either when others repeat those claims, or when the actor making the claim can dominate the discourse (Krinsky 2010). In the analysis below, I will point to reasons why certain constructions succeeded or failed, which include an actor’s allies and the historical and political context.

III. Data/Methods

In order to identify the major claims circulating in the public discourse, I chose to focus on large newspapers in each country: La Nación in Argentina and The New York Times in the United States. Both have broad reach, targeting a national audience and national policy makers, and as such help set the news agenda in other media, such as smaller papers, journals, and television. Because of this, they should capture all the dominant claims that shaped the public debate over same-sex marriage; if claims did not appear these newspapers, it is doubtful that they could have had a major impact on widespread understandings of the issue. Both papers are also, importantly, archived in the LexisNexis database, providing a way to perform similar searches across two countries.

I used LexisNexis to search for all articles about same-sex marriage in each paper. I charted the coverage by month, looking for spikes during which same-sex marriage garnered more attention. Comparing these charts with the historical record, I chose time periods in each country that encompassed all the major events that prompted increased coverage. This totaled four periods in Argentina and seven in the United States; after eliminating false positives, the Argentina periods contained 189 articles and the US periods contained 897 articles. In order to bring the US coverage down to a level comparable with Argentina without missing important claims, and in order to not skew my data toward time periods with exceptionally heavy coverage, I adopted a variable sampling strategy. In Argentina, the earlier time periods contained sparser coverage, so all articles were included; in the final period I set a sample rate to get an average of

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Some might think the New York Times a strange choice to pair with La Nación, given the US paper's reputation for being left-leaning and the Argentine paper's reputation for being right-leaning. I did this for two main reasons. First, the two papers are analogous in that, over the time periods covered in the study, they provide the most coverage of LexisNexis-indexed newspapers in terms of both number of articles and depth of articles. This means that each is most likely to provide the most comprehensive look at the public debate over marriage equality in each country, despite any purported biases. Second, I believe that any bias at each paper has little impact on my qualitative analysis. This is because both papers subscribe to the modern journalistic principles of objectivity and balance, such that articles concerning marriage equality typically quote from parties on both sides of the debate and attempt to present the news in a way that will be perceived as neutral. Where this does not hold is in the opinion section; editorials would be expected to reflect the ideological biases of each paper. However, op-ed columns and letters to the editor present diverse perspectives that often oppose the editorial stance. In my qualitative analysis, I take into consideration the potential biases of each paper.
10 articles per month. This gave me a total across all time periods of 112 articles. For the US articles, which were more evenly spaced across time periods, I sampled at a rate of between 3 and 5 percent to match the Argentina article density, producing a total of 224 articles. These differing sampling rates should help ensure that all frequently repeated claims are recorded but that claims during periods of lighter coverage are not overwhelmed in the data.

My sampling was not purely random within time periods, however, because I expected claims to differ depending on the setting (Krinsky 2010). The setting, as I define it, is the institutional location for a news event and encompasses things like state courts, elections, protests, and organizations. So, for instance, I would expect claims centered in the legislative arena to differ from those centered in the judicial arena, and for claims in both to differ from those centered around protest. Thus, rather than simply take a percentage of all articles per time period, I sampled per setting within each time period. This should ensure a more representative sample of claims.

This meant I made three coding passes through the data. The first pass, which occurred before sampling, involved eliminating false positives and assigning a setting code to each article. In the second pass, done after sampling, I engaged in a form of open coding (Corbin and Strauss 2008, Charmaz 2006), coding each instance of subject construction by article, date, setting, actor, and claim. In this pass, claims would be coded using language identical or similar to the original, identifying the subject and the construction; e.g., “State: changing course of history” or “Gays: long-term relationships.” Actors were also coded into categories such as “advocate” (for advocacy organizations and others identified as supporters or protestors), “journalist,” “state legislator,” and “federal executive.” In the third pass, I grouped similar claims into code categories and grouped actors into three categories: Support, Oppose, and Neutral/Mixed. For the examples given, the codes were recoded as “State: Progress” and “Gays: Committed.” I then analyzed my recoded data within each time period to identify discursive trends, checking my analysis against and supplementing it with supplementary sources, which included interviews and organizational archives and press materials.

In translating text into codes, some nuance and detail are inevitably lost. Therefore, I temper my reading of the coded data with a strong measure of qualitative analysis. As the sole coder, I read every article in my database, and as such I was able to identify trends and note passages that did not code particularly neatly but still contributed to the debate over meanings. I highlight and delve deeper into claims that stood out for their paradigmatic nature or for capturing shifts in constructions or tactics. The following sections present my analysis.

**IV. Paths of subject construction**

My data show that while much of the marriage equality discourse in the United States and Argentina covered similar ground, the Argentine debate centered more on the construction of the state and its proper role with regard to its citizens, while in the US debate, questions of gay and lesbian identity and their relationship to society took on increased prominence. Across all time periods, Argentine actors took the state as their subject in 60 percent of claims, compared to 44 percent in the United States. US discourse gave much more attention to gays and lesbians (33 percent) than Argentine discourse did (21 percent). In the two subsections below, I describe how the substantive differences in these constructions likewise reflected the two different paths taken: focusing on assimilating marginalized individuals into society, versus focusing on expanding the state’s responsibility for citizens’ rights.

**A. Constructing Gays and Lesbians**
The opposition in both Argentina and the United States constructed gays and lesbians as different from and a threat to society, and therefore undeserving of rights. US supporters countered these constructions with five main constructions of their own, four of which complement each other as sympathetic framings of gays and lesbians. These first four cast gays and lesbians as having loving, committed, and stable relationships; as being mainstream and no threat to society; as suffering harm; and as experiencing emotions in reaction to marriage politics. The fifth—claims constructing gays and lesbians as citizens deserving rights, equality, or fairness—was always present but overshadowed by these other constructions. In contrast, Argentine supporters spent little time constructing gays and lesbians, and the equality claim was more prominent than in US discourse. (See Figures 2 and 3.)
A 2008 article anticipating the first marriages to take place in California is a typical example of the US emphasis on sympathetic portrayals, which are typically made by gay and lesbian actors and supporters and buttressed by reporters’ characterizations. The article, “California Braces for New ‘Summer of Love,’” explored how gay and lesbian couples planned to celebrate their upcoming weddings and the reaction of the California tourism industry (New York Times, June 14, 2008). This served to characterize gays and lesbians as having the same kinds of hopes and desires as the rest of society, as well as contributing to that society through wedding spending. The Times quoted one betrothed from New York, who “fell in love in the Borough Hall subway station 15 years ago while standing in line to buy tokens” (a brief description that itself demonstrates the long-term stability of same-sex relationships and their mundane, inoffensive nature):

"When I was younger, I didn't understand the point of getting married and replicating heterosexual life," said Mr. Dreiblatt. "But over the years, my thinking has changed. The law in California and the implications for New York spoke to us and said, 'now is the time.'"

This narrative begins with the gay subject identifying as different from heterosexual society, which he did not “understand.” Now older, it is the gay subject himself who has changed, and his decision to “replicate heterosexual life” was prompted by actions taken by the state—which “spoke to us”—and made it possible for him to get married. By recognizing the gay subject as the same as the straight subject, then, the state helps complete his assimilation. And society—particularly business—benefits from that assimilation. “It’s basically a Godsend,” a general manager is quoted as saying. “We’re just blessed to help.” The manager’s invocation of religion additionally works to undermine opposition claims that borrow authority from religion.
In another article, the executive director of a New York LGBT group makes a revealing statement about how activists are attempting to cast the same-sex marriage issue (New York Times, May 13, 2009).

"This is about putting a face on the people who are affected by this," said Alan Van Capelle, executive director of the pride agenda. "Marriage equality should not be a political issue. It is too important; it affects too many people."

This quote comes in the midst of an intense legislative campaign in New York, after the Assembly passed a marriage equality bill and sent it to a divided Senate. Claiming that same-sex marriage "should not be a political issue" attempts to remove it from the realm of questions of rights and put it in the realm of something like humanity; claiming that it is “too important” and “affects too many people” firmly places gays and lesbians in the center of society, not at the margins where the opposition tries to relegate them.

Various accounts, both popular and scholarly, locate the turning point for same-sex marriage advocacy in a shift from “political” claims about discrimination and rights to claims about love, commitment, and family (e.g., Tarrow 2013, Frank 2012, Ball 2011). Tarrow writes: “What was most striking about the campaign for same-sex marriage was that not only LGBT activists, but also politicians eager to court public opinion, increasingly came to use the language of love to describe it” (2013, 183). As the online newsmagazine Slate described it, the new message signaled a sea change in the way gay advocates pled their case. This was a way to invite straight people to empathize with gay people, to reassure the majority that gay people wanted the same things that they did, and to shift focus from minority rights to points of commonality (Frank 2012).

Yet my newspaper data and the archival record show that this shift may not have been as dramatic as many claim. As far back as 1995, activists talked not just about rights, discrimination, and government interference, but also emphasized the need to “personalize the issue with dramatic personal stories that will move politicians” (Bray and Barrett 1995, 8). Memos from the early and mid 2000s show that movement leaders at that time already believed it better to lead “not with the frame of equality (which presupposes they believe you should be treated equally), but with a frame of sympathetic and compelling stories organized around a message such as ‘it is unfair to leave people unprotected, and here is a real story of injustice/harm, etc.” (Wolfson 2003). Another memo echoed that approach:

We have to start using the best messengers, typically couples, sometimes parents, sometimes clergy, but rarely movement speakers. We must begin: 1) showing (not saying) that same-sex couples are, in many ways that appeal to people, similar to opposite-sex couples, and most critically, that they commit to each other; and 2) showing (not saying) that couples suffer horrible consequences when treated as strangers (ACLU 2005).

The strategic emphasis on painting same-sex couples as sympathetic then continues as a strong theme, as in Freedom to Marry’s 2011 report, which tells activists to “speak to the heart first, then the head,” and models narrative tactics of showing, rather than telling, and letting the
audience fill in the gaps: “Without saying ‘we’re just like you,’ this couple tells their story in a way that allows non-gay individuals to make that connection for themselves” (4; emphasis in original).

The newspaper data reveal that, in terms of discourse in the public arena, the “committed” construction, the code I used for claims that described lesbians and gays as loving, committed, and in stable relationships, actually dominated in 1996 and decreased in occurrence over time. A construction shift does happen around the 2008-9 timeframe: from gays and lesbians as “committed” to gays and lesbians as feeling individuals. “Feeling” first appears as a noteworthy construction in the 2003-4 time period and becomes the dominant construction among supporters by 2008-9, as “committed” fades. An example of “feeling” can be seen in a June 16, 2009 Times article that quotes HRC president Joe Solmonese: "I cannot overstate the pain that we feel as human beings and as families when we read an argument, presented in federal court, implying that our own marriages have no more constitutional standing than incestuous one.” Other constructions used words like “infuriated” (November 16, 2008), “tears in their eyes” (June 30, 2009), and “something you feel deep in your heart” (May 1, 2013). The data also show a move away from “equality” talk among gay and lesbian activists beginning in 2008-9, indicating that there indeed was a strategic shift; however, “equality” had never overshadowed the combined sympathetic constructions, making that shift appear rather subtle.

Another noteworthy construction unique to the US debate was the analogy to the civil rights movement or to experiences of African-Americans or mixed-race couples. An April 16, 2009 New York Times article published a typical example:

"I am better than to get on the bus and still sit in the back," said Amy Wright of Concord, who said she had worn a wedding band for nine years even though the state would not recognize her relationship with another woman as marriage. "I want to sit in the front of the bus."

Despite recurring activist attempts to project this claim, it never gained much echo from other actors. This reflected, in part, criticisms of the whiteness of the movement and alienation of would-be African-American supporters. It also contrasts with the experience of the opposition, in that while marriage equality supporters had difficulty activating race-based support, opponents—as described below—were more easily able to activate race-based opposition in their constructions of the state.

These constructions, of course, did not happen in a vacuum; they were often responses to opposition claims about gays and lesbians, which cast them as different from and threatening to society. Early on, opposition claims constructed gays and lesbians as immoral above all else and were often indirect—though not subtle—as when Representative Bob Barr argued that federal legislation barring recognition of same-sex marriage was necessary because “the flames of self-centered morality are licking at the very foundation of our society, the family unit” (7/18/96). But where supporters changed their constructions over time, the opposition strayed little from their focus on morality and harm to society. And while supporter constructions of gays and lesbians as committed and as equal began to find traction and repetition among state actors, journalists, and other members of society, increasing the diversity and size of supporter voices, opponents’ ranks within the public discourse dwindled. By 2006, virtually all of the “immoral” or “harm society” claims were being made by anti-same-sex marriage organizations; it was becoming less politically savvy for politicians to make such claims themselves. In 2012, for
example, when asked about his opposition to marriage equality legislation in New York, state representative Mike Long admitted,

Well, I don’t think [same-sex marriage] hurts anybody, but I think a society has to have certain standards….I know plenty of gay couple, O.K.? Some of them, if not all of them, are very good people, O.K.? I just don’t believe that society needs to change what the definition of marriage is to accommodate their lifestyle. (New York Times, April 15, 2012)

With no clear alternative constructions that could attract an echo chamber, the opposition had little way to maintain a position of authority or dominance on the question of who gays and lesbians are, and found themselves isolated in the discourse.

In Argentina the main contrast, as mentioned above, is simply the much lower proportion of constructions of gays and lesbians. Most of the constructions themselves were not, on the surface, remarkably different, with six of the eight claim codes overlapping. Two main contrasts stand out here. The first is that gays and lesbians as good parents becomes a much more important issue in Argentina, particularly in the final time period, when it is accompanied by a spike in “mainstream” claims. These appear to be a reaction to the opposition’s shift in strategy: as supporter claims for the state’s extension of rights began to dominate, the opposition proposed a civil union law as a last-ditch effort to prevent a marriage equality bill. The civil union bill would not allow for adoption, and so in the final time period, when the idea of lesbians and gays deserving equal rights had found support even among conservative voices, supporters devoted more of their claims about lesbians and gays to fending off this attack on gay parenting.

The second difference is that while activists in the United States attempted to depoliticize their constructions of gays and lesbians, Argentine activists embraced their activist identity. Alejandro Freyre and José María Di Bello, the first gay couple to successfully marry in Argentina in 2009, were outspoken about their HIV status and even used that and their activism to explain their role as plaintiffs in the marriage campaign: “We asked ourselves who it could be, and as we both have HIV and are activists with the Federación [Federación Argentina de Lesbianas, Gays, Bisexuales y Trans (FALGBT)], we offered to do it” (La Nación, November 14, 2009). The first couple to bring a marriage case was also a pair of prominent FALGBT activists—who were, incidentally, breaking up at the time, but decided to go forward with the petition for the sake of the cause (Bimbi 2010). This is in line with the FALGBT’s general strategy of maintaining gays’ and lesbians’ identity while claiming equal rights, as expressed in their campaign literature: “We decided to fight for what we deserve as human beings and as citizens: equality before the law, an equality that respects and celebrates differences and at the same time guarantees us justice in both treatment and opportunities” (FALGBT 2009, 3).

By contrast, the US plaintiffs described by Supreme Court Justice Anthony Kennedy in the 2015 Obergefell opinion could hardly be less militant-sounding: two elderly men from Ohio who had been together for more than 20 years, one of whom passed away prior to the lawsuit; two nurses, one who works in a neonatal unit and the other in an emergency unit, who have adopted three children described as “abandoned” and having “special needs”; and an Army Reserve sergeant and his partner, the former of whom “served this Nation to preserve the freedom the Constitution protects” (4-6). The foregrounding of non-movement speakers who would appeal to the so-called moveable middle was not a coincidence but an explicit strategy of the US marriage movement (ACLU 2005), which buttressed the construction of gays and
lesbians as non-threatening, ordinary people—whereas the Argentine framing reinforced the construction of gays and lesbians as rights-seeking and rights-deserving. In other words, to return to the two paths of subject construction illustrated in Figure 1, where US discourse worked to assimilate lesbians and gays into society, Argentine discourse maintained more of a separate minority status for the group and focused instead on the state, as I will describe in the next section.

**B. Constructing the State**

Regarding constructions of the state, once again I find that the rhetoric coming from opposition voices in both countries took similar aim: to stop the state from changing the status quo, making claims that the state had no right to alter marriage, and that to do so would be undemocratic or authoritarian. As with constructions of gays and lesbians, it is in supporter discourse that we see the greatest divergence. Argentine supporters focused a great deal more of their attention on the state than on gays and lesbians, and their construction was very focused, with one claim rising to dominate across time: the state’s role is the protector of rights and equality for all of its citizens, particularly minorities. This construction was bolstered by only two other frequent constructions: the state as upholder of laws in general, and the state as modern and progressive. US supporters, on the other hand, not only focused less on the state as a subject, but their constructions were much more varied. Eight different constructions appeared with some frequency, with none dominating the rest. Notably, two focused more on morality and emotions: the state’s responsibility to act on principle (in contrast to law or public opinion), and the state as an actor that hurts gays and lesbians. In this final construction, claims focused on the suffering the state causes, linking it to the US constructions of gays and lesbians as feeling rather than voicing the idea of rights being violated. As I will describe in this section, these contrasts between the two countries construct different responsibilities for the state and different relationships between the state and its people.

First, however, I will explain what I mean by the state in this section. Because I am interested in how actors themselves construct subjects, I attempted to remain as close to the original claims as possible when coding. I therefore took claims with the following subjects as claims about the state: state bodies such as legislatures or courts, state actors working in their official capacities, broad references to things like “the government,” and laws or court rulings. This means that in different places and times, constructions of the state might focus more on certain aspects of the state than others, which should account for some of the variation in constructions.

In Argentina, supporters put forth a single clear, dominant construction of the state: no matter which state actor, body, or branch, its role is to be a guarantor of rights to all its citizens—explicitly including minorities like gays and lesbians. Claims that the state is obligated to provide “equal rights” or “the same rights with the same names” were ubiquitous from the FALGBT and its supporters in both the state and society, particularly by the time Congress took up the issue in 2010. These constructions often did not even mention gays and lesbians; for example, FALGBT president Maria Rachid argued that authorities should “respect the human right of equality before the law that must be guaranteed to all people” (*La Nación*, December 29, 2009). These constructions often pit the state against a majority in society, acting as defender of minorities; this also served as a response to opposition claims of authoritarianism or attempts to divert the political process. For instance, when the opposition pushed for a popular vote on the marriage question, Rachid argued: “You can’t put human rights up for a vote; you either recognize them or
don’t recognize them” (La Nación, June 2, 2010). Even more explicitly, Senator Alfredo Martinez of the center-left Radical Civic Union party (UCR) claimed that “We have to legislate for a minority knowing that there will be a majority that disagrees” (La Nación, July 15, 2010). The language of rights was repeated frequently by state actors, all the way up to the president: upon promulgation of the bill, Cristina Fernández de Kirchner announced,

When I woke up the day after the [Senate] passage I thought to myself that I had the same rights, and there were hundreds of thousands who had won those same rights that I had. No one had taken anything from me, and I had taken nothing from anyone; on the contrary, we had given to others things that they lacked and that we had” (La Nación, July 22, 2010).

Kirchner constructs the state as granting rights, but her claim also does the subtler work of placing herself within society, casting both state and society as unharmed and instead perhaps made better by granting those rights. The benevolent state intervenes to bestow equality upon those previously lacking it—again, not identified as gays and lesbians, simply “hundreds of thousands.” Because activists and their supporters do not shy away from highlighting gay and lesbian identity and activism, as explained above, this erasure seems to be less about negating gay and lesbian identity than about placing the focus on the state and its responsibilities to its citizens. Rather than insisting foremost that gays and lesbians ought to be sympathized with, the dominant supporter discourse stressed that the state must protect and expand rights for all.

Supporters complemented this construction with claims casting the state as guarantor of law and the constitution more generally, and the state as modern, historic, and progressive. The first is similar to the construction of the state as protector of rights and equality, but I coded claims separately if they made no mention of principles like rights, equality, or discrimination and focused only on obedience to law or constitutions. In other words, the rights claim is about particular principles found in law, but the law claim is simply about upholding the law. These claims were often made by state actors themselves; they mostly appeared as court rulings that a law was unconstitutional, but also came in the form of a state actor defending their own actions as required by the law. For instance, Governor Fabiana Ríos, who allowed the first same-sex marriage in Argentina to take place in her southern province, justified her action by saying, “I did nothing extraordinary. I simply complied with the law, something that would be good to begin to do in Argentina” (La Nación, December 29, 2009).

Such claims dropped off significantly in the final time period, which included far fewer articles in court settings; they were at that point overtaken by state-as-progressive constructions, which favors ideas of change over fidelity to enshrined laws. These constructions frequently appeared as claims about the state’s contributions to a better Argentina: “This advance makes us a more just, democratic, and free country,” declared Rachid upon a court victory authorizing a same-sex marriage (La Nación, April 16, 2010). These sorts of constructions put the state in the role of bringing about change for the better of the whole society, again focusing on the relationship between the state and society rather than the state and lesbians and gays in particular. All of these constructions combined put forth a state that is responsible for its citizens and makes them better—at times by going against their will. It was a construction that over time gained echo among more prominent and powerful state actors, most importantly Kirchner and her husband (the ex-president and then-legislator) Néstor Kirchner.
This ability to attract an echo chamber put marriage equality supporters a step ahead of their Catholic Church-led opposition. The Church hewed closely to the same path throughout the years of debate: the state is acting in a bullying and undemocratic manner and has no right to change marriage. Both seek to limit the power of the state to act, the first by positioning it as deferent to society, the second as deferent to the Church. In an example of the first, Eduardo Sambrizzi of the Corporación de Abogados Católicos accused Congress of “legislating behind the backs of the people” (La Nación, June 16, 2010). This construction of state actors as acting undemocratically by going against “the people” was repeated across various groups of actors in Argentina, where the Kirchners’ rule had alienated conservative sectors beyond the Church. The second construction—the state has no right to change marriage—came almost exclusively from the Catholic Church, which itself tried to claim sole ownership over marriage. A press release from the Corporación de Abogados Católicos quoted in La Nación cautioned that “The Chamber of Deputies does not have the authority to change rules of constitutional hierarchy, nor to abolish precepts of the natural order” (May 13, 2010). The proper role of the state, as constructed by the opposition, is thus to reflect the will of society and of (the Catholic Church’s interpretation of) nature.

The trouble with these constructions is that they did not help the opposition forge broader alliances that could gain dominance over the conversation. While accusations of authoritarianism carry weight in a country scarred by a military dictatorship responsible for the disappearance of an estimated 30,000 people, the Catholic Church wields little legitimacy to make such claims. Unlike in many other Latin American countries that fell under military rule in the 1970s, the Church did not radicalize or join the fight for human rights; instead, it was at best silent, and at worst complicit with the abuses of the military (Verbitsky 2007, Morello 2015). Moreover, its claims to authority over social institutions would find difficult terrain in a society becoming increasingly religious and increasingly skeptical of the role of religion in politics. In 2006, forty-four percent of Argentines agreed that religious leaders should not influence politics, while only seventeen percent disagreed; only thirty-eight percent said they attend church at least once a month (World Values Survey Association 2005-2008).

The opposition engaged the rights claim as well, trying different tactics over time. At first, they argued primarily that while the state must not discriminate when it comes to rights, withholding marriage from same-sex couples was not discriminatory because they were not equal to heterosexual couples (e.g., La Nación, October 19, 2007). This claim continued, but by the end, as the idea of marriage as a human right took hold, it was accompanied by even more claims that the state would be violating domestic law and international human rights law by allowing same-sex marriage—both the rights of the child (who might be adopted by gay parents) and the right to marriage (which they interpreted as belonging solely to man-woman unions). However, while the claim came from legislators and judges, not just official Catholic voices, the marriage equality claims-making side included legislators, judges, and more importantly, respected human rights organizations and the National Institute Against Discrimination, Xenophobia, and Racism (INADI). This support resulted in part from years of persistent efforts on the part of the LGBT movement to link itself to human rights issues by engaging in broader human rights activism (Belluci 2010).

Aside from the sheer difference in volume of claims, the biggest contrast between Argentine and US discourse about the state is that supporting voices in the United States simply didn’t have a single clear and dominant construction of the state. As mentioned above, supporters made eight separate constructions with some frequency, which I defined as appearing in more
than one time period and constituting at least 10 percent of claims in at least one of those periods; only four claims met that criteria in Argentina (see Figures 4 and 5). No US construction dominates the rest, nor does a “package” of related claims dominate, such as happens in the gay and lesbian constructions.

The claim that appears more than any other claim across all US time periods, “principle,” never constitutes more than 10 percent of claims in any time period in Argentina. This claim is an amalgamation of several types of constructions that make moral judgments about the state: it is courageous, misguided, shameful, doing right, or acting with dignity. An example of this claim is the Times’ April 15, 2012, description of New York state senator Jim Alesi, who “clings to something that lawmakers rarely get from working in Albany, a sense of having done something worthwhile and a little brave.” Here, the reader is to understand that for a state actor to act in a principled way is both rare and praiseworthy. Or, as the editorial board put it in a construction that combined “principled” with “uphold Constitution,” “Republicans are trying to rally their far-right base for the fall elections with a mean-spirited sideshow threatening to the Constitution: a ban on same-sex marriage” (New York Times, June 1, 2006). The focus is not on a particular principle in the law that the state takes as its purpose, as in the “protect rights” construction; it is on the idea of the state as a principled actor. In other words, these constructions are judgments upon the state actors’ character, rather than upon the importance of minority rights.

Another claim that was found almost exclusively in US discourse focused on the state as an actor that hurts gays and lesbians. This construction is differentiated from those of the state as protector of rights in that they focus on the suffering the state causes, linking it to the US constructions of gays and lesbians as feeling, rather than voicing the idea of rights being

![Fig. 4: Supporter Constructions of the State - Argentina](image-url)
violated. Here, the harm caused takes the form of things like “destabilizing their families” (*New York Times*, September 17, 2006). In another example, *Times* columnist Frank Bruni described the work being done by the family of a young gay man who committed suicide (June 27, 2013):

Through public speaking, lobbying and other work with the Tyler Clementi Foundation, they're trying to stop young people from hurting one another, and they're trying to call out aspects of American life that pass judgment on LGBT people and make some of them, teenagers especially, feel fear and despair. The Defense of Marriage Act, a central provision of which the Supreme Court struck down on Wednesday, was one of those aspects.

The state in this construction, in the form of a federal law, works together with society to cause emotional suffering for LGBT people; this is not about the state’s position with respect to rights but with respect to feelings. Like constructions about gays and lesbians as feeling and tied closely to them, this claim became increasingly prominent as time went on, peaking in the final time period. In sum, not only did US supporters of marriage equality focus less on constructing state and with no dominant message, some of the messages they did put forth connected to their constructions of gays and lesbians to elicit moral outrage or sympathy around gay and lesbian struggles, rather than to build up ideas of an authoritative and benevolent state.

This could be seen in part as a response to opposition discourse about the state, which, as in Argentina, centered largely on its right to act and its undemocratic behavior. But the US opposition found much broader support for those claims in the American playing field. Questioning the state’s right to act nearly always came in the form of a claim that one branch of
the state was breaching its boundaries of authority. Accusations of “tyranny” (e.g., *New York Times*, December 26, 1999) or “activism” (e.g., *New York Times*, October 27, 2006) were lobbed almost exclusively at the courts. The lack of pro-same-sex-marriage actions taken by other branches throughout most of the issue’s history can partly, but not entirely, explain this. A handful of state and local executives began recognizing same-sex marriages in 2004, in the wake of the Massachusetts decision; these actions elicited outrage from opponents, but slightly different language—acting “above the law” (*New York Times*, February 13, 2004) or making a “smash-and-grab play” (*New York Times*, March 6, 2004). Even when legislatures passed marriage laws, such as Massachusetts in 2004 (after the state supreme court ruled that it essentially had to) or a handful of other states beginning in 2009, the public discourse reflected little in the way of claims that legislatures were acting undemocratically, in contrast to Argentina. Claims of judicial activism and tyranny have a long pedigree in the United States conservative movement, which has similarly attacked major court advances by the civil rights and women’s movements, such as those that desegregated public schools and decriminalized abortion. These sorts of claims, therefore, link marriage equality to those other movements and issues, activating race-based and gender-based opposition as well. However, once more state legislatures started passing marriage equality laws, the power of judicial activism and tyranny claims in the national conversation deteriorated.

**V. Consequences and Implications**

Marriage equality became politically thinkable in each country as conceptions of the state and gays and lesbians shifted, following different trajectories. This happened as actors projected claims about the two subjects in the public arena, constructing and reconstructing ideas about who the state and gays and lesbians are and what their relationship to each other and to society ought to be. Adding this analysis to the structural factors outlined earlier that influence marriage equality outcomes in the two countries deepens explanations of the different paths taken. As a strong opposition drew the US movement into scattered battles, often at the ballot box, supporters worked to convince voters that gays and lesbians were no different from them and therefore should not be denied marriage rights. Perceiving a favorable political alignment, Argentine activists attempted to construct the state as a protector of minority rights, even against popular opinion; state actors increasingly echoed this claim, working to expand expectations of state power and reach. As a consequence of these divergent paths of subject construction, the policy outcome of marriage equality in each country carries with it different impacts on understandings of citizenship and democracy, which we might think of as part of the discursive opportunity structure. Marriage equality in Argentina was not just a victory for gay and lesbian marriage activists, but a shift toward increased state authority and power vis-à-vis the church in terms of control over societal institutions and responsibility for its citizens. In the United States, the winning discourse shied away from constructing the state as intervener, and gay and lesbian couples became worthy of rights through normalization and acceptance by society.

In other words, these discursive outcomes can be seen as part of the greater discursive struggle over the relationship between the state and its citizens in US and Argentine society. In Argentina the struggle is particularly acute. Against a history of corporatism epitomized by former leader Juan Perón and the negation of rights under the later military dictatorship, an emergent human rights movement demanded a state responsive to citizens’ demands (Jelin 1996, Faulk 2012). Latin America’s subsequent neoliberal turn, however, marked a retreat of the state from taking responsibility for its citizens, shifting the burden of responsibility to the individual
through privatization of state industries and services. The marriage equality movement took place in what is increasingly seen as a post-neoliberal era in much of South America, in which social justice rhetorics are again resurgent, and states like Argentina—particularly under the Kirchners—are attempting to engage in re-nationalization and taking more responsibility for citizens’ well-being (Pecheny 2012, Faulk 2012). The marriage struggle itself can be seen as an important element in that shift, as its constructions of an intervening state played into the Kirchners’ own efforts toward state expansion and independence from the Church, eventually gaining support from the Kirchners’ party itself.

US political culture has more consistently emphasized individualism, and in recent decades Republican rhetoric advocating citizen liberty from state interference has been pervasive. Ideas of citizenship draw from both liberal ideals of equality and exclusionary hierarchies of difference, with deep histories of racial and gender exclusion (Smith 1999). This means that while there is a discursive foundation within the political culture for inclusion-seeking activists and their supporters to appeal to notions of equality, they also might work to construct their group as not properly belonging among the ranks of the excluded, without necessarily challenging the existence of those hierarchies. In hewing more closely to the latter path, supporters of marriage equality can be seen as achieving policy change by reinforcing notions of assimilation as the proper means for citizens to achieve equality.

By shaping understandings of the relationship between the state and its citizens, marriage equality debates shape the playing field for not just LGBT movements, but for other movements as well. In Argentina, the construction of the state is about the state’s relationship to citizens based on their identity. One would therefore expect the expansion of its conceived authority to help with campaigns for transgender rights, anti-discrimination laws based on identities, and even possibly indigenous rights; on the other hand, it is not as likely to provide footing for advances on social justice issues more associated with behavior than identity, such as abortion rights and sex work. Indeed, two years after the passage of the marriage equality law, activists successfully pushed a gender identity bill that not only required state recognition of self-identified gender identity, but also required public and private healthcare plans to provide gender-affirming medical treatment to all who desire it. In the Congressional debates over that bill, rhetoric focused again on the state’s responsibility to protect a minority group’s rights, this time including such rights as the right to identity, health, and work; it also emphasized putting the country’s authoritarian history behind it, and creating a more democratic, just, and plural society. Activists are currently working on a comprehensive anti-discrimination law that would not just strengthen existing law and include sexual orientation and gender identity, but also include a variety of other currently excluded groups. Abortion, on the other hand, remains illegal under most circumstances, and the state continues to push for expanded criminalization of sex work (Sabsay 2012). In these cases, the conception of a protective state meshes easily with constructions of sex workers or fetuses as the subject of rights needing that protection, putting feminist activists at a discursive disadvantage.

In the United States, the construction of gays and lesbians as sympathetic—largely through characterizations as non-threatening, loving, and feeling—is conversely more about behavior. By acting in ways that prove them to be similar to fully incorporated citizens, sharing similar emotions and values, the marginalized render their identity irrelevant and almost invisible; the burden is on them to change rather than on the state. Where Argentine transgender activists were able to focus more on the state’s responsibility for transgender citizens, the dominant US discourse around transgender rights appears to be following the same assimilative
path marriage followed, constructing transgender people as sympathetic and non-threatening, and elevating goals like military inclusion and gender normative spokespeople like former Olympian, reality television star and self-identified Republican Caitlin Jenner. Abortion rights or sex work, on the other hand, would seem relatively unaffected by the marriage battle, as the state’s reach is not increased.

But these extensions to other movements raise the important question of control over who is taken as the subject of rights: is the subject of marriage rights the gay person or the child being adopted? Is the subject of abortion rights the woman or the fetus? US opponents rarely introduced children as subjects in the marriage debate, and while Argentine opponents did in the final time period, they still totaled fewer than 5 percent of all claims. Though the emphasis fluctuated slightly over time, the debate in both countries was always firmly about the state and gays and lesbians, whereas in both countries the fetus and the woman compete as subjects of rights. How this happened would be an interesting avenue of inquiry.

Finally, I have intentionally analyzed the marriage equality debates using broad categories of supporters and opponents in order to identify the differences in the constructions that emerged over time. However, it is important to remember that on a micro level there are real and important differences between actors within each grouping, and that activists themselves have only limited control over the direction discourse takes. Further research might investigate precisely when and how certain constructions become dominant and certain actors gain standing.

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