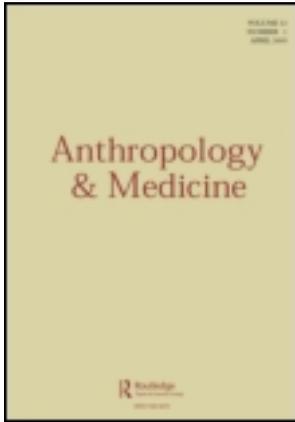


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## Reproductive governance in Latin America

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This paper develops the concept of reproductive governance as an analytic tool for tracing the shifting political rationalities of population and reproduction. As advanced here, the concept of reproductive governance refers to the mechanisms through which different historical configurations of actors – such as state, religious, and international financial institutions, NGOs, and social movements – use legislative controls, economic inducements, moral injunctions, direct coercion, and ethical incitements to produce, monitor, and control reproductive behaviours and population practices. Examples are drawn from Latin America, where reproductive governance is undergoing a dramatic transformation as public policy conversations are coalescing around new moral regimes and rights-based actors through debates about abortion, emergency contraception, sterilisation, migration, and assisted reproductive technologies. Reproductive discourses are increasingly framed through morality and contestations over ‘rights’, where rights-bearing citizens are pitted against each other in claiming reproductive, sexual, indigenous, and natural rights, as well as the ‘right to life’ of the unborn. The concept of reproductive governance can be applied to other settings in order to understand shifting political rationalities within the domain of reproduction.

**Keywords:** reproduction; governance; human rights; neoliberalism; Latin America

### Introduction

This paper offers the concept of ‘reproductive governance’ as an analytic tool for tracing the shifting political rationalities directed towards reproduction. The framework of reproductive governance is developed in reference to Latin America, where since the mid-1990s, within the context of neoliberal economic reforms, there has been a barrage of constitutional, civil, juridical and legislative initiatives to both liberalise and curtail reproductive and sexual behaviour through new moral regimes and rights claims (Alvarez 1998; Morgan and Roberts 2009, 78; Corrales 2010). These shifts in reproductive governance provide a framework for understanding what is marked as rational and irrational reproduction in contemporary Latin America, with the hope that the perspective may be usefully applied elsewhere as well.

In recent years, Latin American progressive activists working with international donors have brought about policy changes in the name of gender, reproductive,

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and sexual rights. Throughout the region, activists have passed legislation to punish domestic violence. They have lobbied legislators to improve access to abortion, emergency contraception, sterilisation, and assisted reproductive technologies and they have supported the rights of sexual minorities, including the decriminalisation of homosexuality and legalisation of gay marriage. At the same time, abortion has been banned entirely in Nicaragua (2006), El Salvador (1998), the Dominican Republic (2009), and several Mexican states, and in Costa Rica, the Constitutional Chamber of the Supreme Court banned in-vitro fertilisation in 2000 to appease the Catholic Church. These efforts have been led in the name of the rights of the unborn, where the foetus is cast as a rights-bearing citizen. By contrast, immigrants may be defined as people who drain the state of resources, as those whose rights can be denied or withheld. Such duelling rights claims produce new kinds of actors and subject positions and new moral regimes.

Moral regimes refer to the privileged standards of morality that are used to govern intimate behaviours, ethical judgements, and their public manifestations. The concept builds on Michel Foucault's 'regimes of truth', the historically specific mechanisms that produce the ideas that function as true (Foucault 1990). Additionally moral regimes incorporate Didier Fassin's notion of the 'politics of life', which refers not only to how populations are governed 'but to the evaluation of human beings and the meaning of their existence' (Fassin 2007, 500–1). With moral regimes of reproduction, the focus becomes the evaluation of actions and ideologies related to generation, perpetuation, and human continuity. Moral regimes are often evaluated in relation to other, supposedly immoral and irrational activities. The specific fault lines along which moral regimes are policed will vary from place to place, but examples may include diverse sexual behaviours and identities, family formations (including marriage, adoption, and inheritance), domestic organisation (including the gendered division of labour), manifestations of religious and spiritual commitments (including the justifiability of secular or theocratic states), and idealised forms of social reproduction (such as education or social security). Post war population control policies, for example, often produce images that serve as ideological guideposts for what modern families should become (Aramburú 1994).

In Latin America, progressives and conservatives alike have made reproduction central to moral regimes that emphasise values of compassion, conscience, nurturance, responsibility, dignity, and citizenship. When Brazilian poverty is discursively associated with criminality, for example, moral regimes may be more supportive of the notion that children of poor families be sent abroad for adoption (Cardarello 2012). Nicaraguan migrants who give birth in Costa Rican hospitals may be more likely than their Costa Rican counterparts to become candidates for tubal ligation, because of their perceived irrational reproduction, at a time when Costa Rican pundits inflame nationalist and pronatalist sentiments by making dire predictions about the consequences of Costa Rican fertility decline and the coming 'demographic winter' (Goldade 2007; Bashford and Levine 2010). In both of these examples, reproductive practices that might otherwise be morally suspect, like tubal ligation within a Catholic nation, are recast as defensible and even rational; this theme is echoed by the other papers in this volume. The activities of the biological body – especially the reproductive and sexual body – are at the centre of these regimes, and are hence critical sites of contention.

### *Rivalry over rights*

Shifts in reproductive governance are facilitated by the now international political legitimacy ascribed to the concept of universal human rights. As the human rights strategy garners favour in international law and diplomacy, an ever-expanding coterie of new constituents (including indigenous peoples, youth, environmentalists, and the disabled, sick, and landless) has begun to frame their social struggles in terms of rights (Goodale and Merry 2007). But for all its rhetorical appeal, the proliferation of rights-talk can be treacherous, because it increasingly allows the claims of rights-bearing citizens to be pitted against one another. This is consistent with David Harvey's observation that the proliferation of rights-based social action, made through judicial processes that tend to favour the well-resourced, is produced within a neoliberal template that promotes civil society at the expense of the state apparatus (Harvey 2005, 78).

Part of the genius of rights is that anyone can use them to make claims on behalf of any individuals as separate from the state. Thus, Latin American conservatives who objected to the language of universal human rights at the Cairo and Beijing conferences in 1994 and 1995, for example, can now be heard appropriating the rhetoric of rights to argue for natural (divine) rights, family (parental) rights, and the 'right to life' of the unborn. The rivalry over rights has led activists on opposite sides of an issue to insert preferential language into a proliferation of duelling laws and international accords; disputes over how to interpret the resulting stalemates are regularly heard by the Inter-American Commission on Human Rights, an intra-hemispheric supra-state institution produced to arbitrate human rights violations. In contemporary juridical and legislative processes, advocates on any side of an issue may cast their opponents' position as immoral, frivolous, profane, un-democratic, or seditious by making claims about the kinds of rights they are ignoring. These arguments about rights constitute new kinds of actors and pit them against older subject positions, for example embryos versus women, subjecting both actors to new forms of reproductive governance.

Reproductive governance refers to the mechanisms through which different historical configurations of actors – such as state institutions, churches, donor agencies, and non-governmental organisations (NGOs) – use legislative controls, economic inducements, moral injunctions, direct coercion, and ethical incitements to produce, monitor and control reproductive behaviours and practices. Along with moral regimes, the concept of reproductive governance is shaped by Foucault, who distinguished between governance through sovereign power (or explicit force) and governance through biopower, in which subjects come to govern themselves on intimate bodily levels (Foucault 1990). According to Foucault, sex was one of *the* exemplary sites for the deployment of biopower in modern European nation states. Biological sex linked anatomo-politics – the disciplining of individual bodies – with biopolitics, the large-scale production and management of populations. 'Sex was a means of access both to the life of the body and the life of the species. It was employed as a standard for the disciplines and as a basis of regulation' (Foucault 1990, 146). Sex is related to reproduction, of course, yet in an era when sex and reproduction have become more separable, they can also be analysed as distinct domains. Within the logic of biology, sex is no longer completely reproductive, nor is reproductive practice necessarily sexual. The field of what now constitutes reproductive practice has thus simultaneously shrunk and expanded. And indeed,

Foucault himself argued that realms other than sexuality – race, for example – can profitably be analysed through the framework of biopower (Stoler 1995; Foucault 2003; McWhorter 2004).

The concept of reproductive governance allows for the examination of how the subject making powers of moral regimes directed towards reproductive behaviours and practices are fully entangled with political economic processes. As historians and feminist social theorists have repeatedly demonstrated, these linkages have been evident since the nineteenth century, when the production and management of populations and reproduction began to be understood as a distinct domain (French and Bliss 2007). Reproduction, which has been made to appear domestic, intimate, and apolitical is fully enmeshed within the production of entities like nation-states and economies (Donzelot 1979; Gibson-Graham 1996; Wilson 2004). The concept of reproductive governance highlights the intersections of international policies – pertaining to migration, health, and reproduction, for example – and those occurring on the national scale where their effects are often executed, experienced, and analysed. Tracking reproductive governance across boundaries helps to illuminate how broader political economic processes – such as the expansion of women’s paid formal labour and the incursion of privatised medicine – are shaping reproductive and sexual rationalities and ideologies and making new subject positions (Bedford 2009; Mooney 2009; Ewig 2010). In Latin America, neo-liberal economic processes and related struggles over who shall be worthy of rights, in regards to reproduction, invoke old and new categories and actors like ‘indigenous women’, ‘victims of domestic violence’, ‘responsible mothers’, ‘resource depleting migrants’, and ‘the innocent unborn’, who appear to arise on their own as independent entities.

The constitution of such subject positions occurs among international financial institutions, a proliferation of NGOs across the political spectrum, endogenous social movements, and the Catholic Church, as well as newly powerful evangelical Christian churches. Reproductive governance provides a theoretical framework for understanding the regulation of reproductive options, behaviours, and identities available to women and men, who are often constituted as citizens responsible for reproducing rational social and national bodies (Ginsburg and Rapp 1995). Rational citizens are defined as those that embody and reproduce state-supported priorities in their values, conduct, and comportment. The concept of reproductive governance allows for the consideration of the links between embodied and biological moral regimes, national political strategies, and global economic logics, therefore linking ‘intimate governance to world governance’ (Bashford 2006).

The remainder of this paper illustrates the conceptual utility of reproductive governance to Latin America with a brief history of major trends in population and reproduction from the Cold War to the present. From there the authors deploy the concept of reproductive governance to make three related claims. First, struggles over rights seek juridical codification (that is, constitutional and legislative status) in ways that earlier population approaches did not. Second, contemporary struggles over reproductive governance highlight the tension between individuals and collectivities as bearers of rights. This is consistent with neoliberal efforts to undermine protectionist states, privatise markets, and emphasise the rights of consumers to freedom of choice. Third, concerns about the reproduction of national populations are frequently expressed as control over intra-population movements, especially cross-border migration. Whereas state institutions were once primarily

concerned with controlling the fertility of individual citizens, today state institutions are also likely to direct their attentions towards monitoring the fertility and movement of migrants (Krause and Marchesi 2007).

### **From Cold War overpopulation to the rhetoric of rights**

During the Cold War, reproductive policies were directed at controlling population growth and achieving political stability (Hartmann 1999). Reproductive rhetoric was focused on overpopulation, and policies were governed through technocratic regulatory mechanisms and vertical population control campaigns supported by international donors, directed towards bounded nation states. Even without much evidence that Latin America as a whole had a 'population problem' (Aramburú 1994), international donors and state institutions promoted fertility control as a way to improve health, achieve national economic security, public health, hemispheric stability, modernisation, and full industrialisation. Less explicit agendas involved the promotion of smaller families as a way to combat the spread of communism, increase consumption of consumer goods, and reduce specific racial populations. Aid agencies, and state administrations, and even occasionally the Catholic Church, engaged in concerted efforts to make modern contraceptive methods available throughout the region (Carranza 2007; Necochea López 2008).

The end of the Cold War coincided with a period of rapidly declining fertility rates across Latin America as women began to use modern contraception and surgical sterilisation (Leite 2004). Birth rates fell even in nations without explicit population programmes and policies. While the total fertility rate in Latin America had once exceeded the global average, in the late 1980s it fell below the world fertility rate. Shortly thereafter, the rhetoric of reproductive governance shifted from population control to reproductive and sexual health and rights, as public health experts recommended that attention be shifted to programmes that would prevent sexually transmitted diseases, provide abortion services, and treat infertility (Lane 1994).

The Cairo International Conference on Population and Development in 1994 and the Fourth World Conference on Women in Beijing in 1995 hammered out programmes of action based on a rights-based approach to reproductive health (Haberland 2002; Goldberg 2009). These efforts were strongly resisted by the United States, and implementation was hindered by economic austerity, structural adjustment programmes, and resulting cutbacks in primary health services across Latin America (Cohen 2003; Alvaro, Palma, and Dardet 2006). Despite these obstacles, international discourses of reproduction since Cairo have tended to be framed in terms of individual rights. National campaigns to limit fertility are still in place, but with birth rates dropping dramatically the battle to limit population growth was considered largely over. Collective notions of population control and reproductive health have given way to governance through a new – and newly juridical – understanding of individual rights. This discursive formulation has created an opening for competition between the 'right-to-life' of the unborn and the 'reproductive rights' of women.

Changes in reproductive governance must be understood within the context of neoliberalism 'and its discontents' (Bedford 2009; Tsai 2009; Ewig 2010). Neoliberal economic policies have not been uniformly accepted across Latin America; while

some countries continue to pursue market-oriented neoliberalism, others retain state-sponsored social supports, and some like Venezuela, Bolivia, Nicaragua and to a lesser extent Ecuador, have joined the counter-hegemonic Bolivarian Revolution (known in Spanish as ALBA; *Alianza Bolivariana para los Pueblos de Nuestra América*). Rivalry between diverse political strategies sometimes extends to reproductive governance, with one party arguing that its policies are more rational (in the sense of humane, efficient, or compassionate) than those of its opponent. Yet neoliberalism has provided a robust breeding ground for shifting political rationalities of reproduction that centre, in part, on moral regimes based in rights claims.

Events in Peru exemplify these regional shifts in reproductive governance. The conservative administration of Alberto Fujimori (1990–2000) was responsible for the clandestine coerced sterilisation of hundreds of thousands of indigenous women in the 1990s, a campaign that prompted a national and international outcry when it became public in 2002 (Coe 2002; Center for Reproductive Rights 2003; Ewig 2010). The election of Alejandro Toledo in 2001 dramatically shifted approaches toward reproductive governance. Two of his actions while in office exemplify his approach. To distance himself from Fujimori, Toledo worked to make state institutions recognise the rights claims of indigenous groups based on notions of collective sovereignty – that is, sovereignty based in the collective identity of indigeneity – instead of individual citizenship. These efforts were a partial response to concerns about the ability of indigenous groups to reproduce themselves in the wake of the sterilisation abuses. Toledo also furthered the interest of the Catholic Church by proposing a legal code that would have required all Peruvian women to register their pregnancies at the time of conception to protect the rights of the unborn. Both of these endeavours declared the sanctity of life from conception and the rights of the unborn. What is most significant in the authors' view is that this shift in governance between the administrations of Fujimori and Toledo – from the limitations of indigenous women's fertility through clandestine population control, to the official attempt at the expansion of state surveillance of all Peruvian's women's reproduction through the rhetoric of rights – took place while Toledo's administration cut back access to reproductive health services including condoms, emergency contraception, and post-abortion hospital care (Coe 2004).

It is important to point out that 'rights' discourses take somewhat different forms in Latin American than in other contexts. The concept of 'human rights', for example, tends to have a more collective valence, especially in countries that witnessed sustained campaigns of disappearance and torture under military dictatorships. Human rights are thus understood to apply to the citizenry broadly conceived, and not only to individuals. The theory of 'natural rights' is also heard more frequently in Latin America, where it refers to divinely given rights that exempt individuals from both state control and the reach of secular law. According to social theorist Margaret R. Somers and legal theorist Christopher N.J. Roberts, natural rights are 'alleged to be morally justified by higher laws of God and nature and possessed universally by individuals' (Somers and Roberts 2008, 289). The concept of natural law is invoked to support the supposedly universal and inalienable rights of embryos and fetuses. Proponents argue that legislators have no right to intervene in the 'natural right' of embryos to be born, because any such intervention would be arbitrary, indefensible, and unnatural. The concept of 'indigenous rights' may trump

reproductive rights in places such as Bolivia and Peru, where the new constitution has bestowed rights upon indigenous people, and where women's rights are framed as a movement to eliminate ethnic discrimination and to humanise medical care for all women, rather than on the right to bodily autonomy. This is a very different model than US-based rights claims about the 'choices' to which individual women should be entitled. (Indeed a broader comparison of reproductive governance across the Americas, while beyond the scope of this paper, would be instructive.) The proliferation of diverse rights claims encourages different constituencies to pursue their claims in courts, as actors separate from the state often in conflict with each other (Harvey 2005).

### **Rights from the beginning: Legislative and juridical shifts**

In the post-population environment that emerged after Cairo, several Latin America legislatures have moved to change the point at which juridical rights commence. Argentina, Ecuador, El Salvador, and Peru, for example, have revised their constitutions and civil codes to push juridical rights back from birth to conception. The Catholic and evangelical churches, in concert with the international right-to-life and pro-family movements, have promoted these legislative changes and enshrined the concept of foetal rights, often with the support of leftist political parties. Since 1998 both El Salvador and Nicaragua have enacted total bans on abortion, two of out of only three countries in the world to outlaw the procedure in all instances (Heumann 2007). In addition to legislation, these various institutions have promoted celebrations and symbols of the international pro-life movement (Morgan 1998). March 25 has been adopted as the Day of the Unborn Child, for example, in El Salvador, Ecuador, Argentina, Chile, Guatemala, Costa Rica, Nicaragua, the Dominican Republic, and Peru.

The instantiation of foetal rights in Nicaragua garnered international attention when current president Daniel Ortega helped to create one of the most punitive abortion laws in the world (Goldberg 2009). When Ortega was a leader of the revolutionary Sandinistas, who ruled from 1979–90, the participation and emancipation of women was vital to his political strategy. The Sandinistas never legalised abortion, however, and the war and the resulting perception of under-population reinforced pro-natalist attitudes even prior to 1990 (Howe 2007). After the Sandinistas lost power in 1990, Nicaragua's vocal and well-organised women's groups lobbied heavily for the liberalisation of abortion laws, but the new leaders instead cultivated support from the Catholic Church, which had backed the Sandinistas' earlier struggles under the banner of liberation theology. In 2006, then President Enrique Bolaños signed a law to ban abortion under all circumstances, just a few days before Ortega was to be inaugurated and apparently with his full support. Complications from unsafe abortion were a leading cause of death in Nicaragua throughout the twentieth century, and with this legislation global health officials warned that the new policy was likely to drive maternal mortality ratios even higher (Lakshmanan 2006). The situation in Nicaragua (and in neighbouring El Salvador) has become a flashpoint for global attention to this issue, as several European Union countries threatened to withhold development assistance while global anti-abortion organisations rallied to defend and emulate the measure as upholding the rights of the unborn.<sup>1</sup>

Patterns of reproductive governance surrounding the question of ‘when rights begin’ show evidence of local stratification, compromises, and constraints in addition to external pressures and inducements. While in some nations organisation and state institutions have successfully mandated the ‘right to life’, in others, NGOs and political activists have mobilised under a rights-based approach to advance their stated goals of reproductive safety and autonomy. Networking among Latin American and Caribbean feminists has resulted in a number of coordinated initiatives, including the decision to designate 28 September as a ‘Day for the Decriminalization of Abortion’ (Gómez 2004) and to share ideas for strategies to combat high rates of abortion-induced maternal mortality using the frameworks of ‘human rights’ and the Millennium Development Goals (PAHO n.d.). Struggles waged since that time have led to changes in Mexico City, which recently legalised abortion during the first trimester, and in Uruguay, where doctors are now allowed to instruct women on safer medical (i.e., pharmaceutically rather than surgically induced) abortion methods that can be performed at home.

Both human rights groups and the Catholic Church actively monitored and participated in producing recent legislative shifts around abortion in Colombia. In 2005, Colombian lawyer Mónica Roa challenged the constitutionality of the abortion prohibition (Article 122 of the Penal Code). She argued not on the basis of a right to privacy (which was the basis of the claim made in *Roe v. Wade* in the United States), but in favour of women’s constitutional ‘rights to life, health and physical integrity’. Roa had hoped to push for full legalisation but decided a narrower focus on the right to health would be more effective. While human rights activists argued that there were over 450,000 clandestine abortions in Colombia every year and that unsafe abortion was a leading cause of maternal mortality, the Colombian Catholic Church contested these claims, arguing that abortion did not constitute a health problem and thus should remain illegal (Catholic News Agency 2005). In May 2006, Colombia’s Constitutional Court declared that ‘neither women nor doctors can be penalised for procuring or providing abortions where one of three conditions is met: 1) the pregnancy constitutes a grave danger to the pregnant woman’s life or health; 2) the foetus has serious genetic malformations; or 3) the pregnancy is the result of rape or incest’. The court voted 5-3 in favour of partial legalisation despite the opposition of conservative president Alvaro Uribe, who was then in the midst of a re-election campaign (Karsin 2006). His leftist opponent favoured decriminalisation. The Colombian case helped to underwrite an international shift in strategy for progressives, in which proponents utilised the concept of ‘health clauses’ in their efforts to decriminalise abortion. The moral regime of the right to ‘health’ was therefore counterposed against that of ‘conscience’, where both would supposedly support the most supreme value, that is, the right to life itself.

As pointed out earlier in the case of Daniel Ortega in Nicaragua, the political rationalities and newly minted reproductive policies emerging in Latin America do not correspond to prevalent North American assumptions about how leftist or right-wing governments should act (Edelman and Haugerud 2005; Castañeda 2006; Gago 2007; Arditi 2008; Azize Vargas 2009). The election of progressive leaders has not necessarily resulted in progressive reproductive health policies. Some of the most left-leaning administrations in recent years – including those of Hugo Chávez in Venezuela, Rafael Correa in Ecuador, Evo Morales in Bolivia, and Tabaré Vázquez of Uruguay – oppose the liberalisation of abortion policies in their countries,

although Lula da Silva in Brazil and Michelle Bachelet in Chile were both on record arguing for the liberalisation of abortion law. Meanwhile, some right-wing administrations, such as those of Alvaro Uribe in Colombia and Felipe Calderón in Mexico, presided over the unprecedented liberalisation of abortion policies. How to explain these seeming contradictions?

Some have cited lingering machismo and entrenched Catholicism (see Friedman-Rudovsky 2007), although anthropologists argue that machismo may be an outmoded concept in light of changing attitudes toward masculinity and gender relations (Dudgeon and Inhorn 2004; Gutman 2007, 9–11). The Catholic hierarchy has indeed been a formidable political force, especially where elite opponents of reproductive rights are educated in schools run by Opus Dei (Vaggione 2010). But reproductive health policies have also been liberalised in countries that are predominantly Catholic. Many Latin American Catholics embrace modern contraception and sterilisation, and fertility clinics are proliferating despite the Church's adamant condemnation of assisted reproduction (Roberts 2006). And although abortion is illegal in most Latin American countries, it is primarily Catholic women who account for some of the highest abortion rates in the world (Browner 1976; Htun 2003; Scrimshaw 1985). Many leftist political parties, it should be noted, owe their existence to the Catholic Church, which supported them during military dictatorships. The *quid pro quo* for their support may be that leftist leaders do not challenge the Church's condemnation of abortion. It is clear that Catholic practice in Latin America is far from monolithic (Voekel 2002; Vaggione 2005; Roberts 2006). An understanding of these ostensibly divergent trends cannot rely on culturalist explanations such as gender or religion alone, without taking global and regional economic transformations into account.

Besides producing rights bearers that stand in opposition to each other, rights-based reproductive governance supports neoliberal agendas in other ways as well, by producing citizens who have the 'right to choose' (that is, to consume) privatised medical services. Wealthy women, for example, find it relatively easy to locate doctors willing to perform abortions in the private sector, even though it is illegal. Because safe clinical abortion is readily available for women with economic resources, it has been difficult to convince middle- and upper-class women and their partners to mobilise around safe abortion as a cause (Htun 2003). While states such as Brazil and Ecuador have enacted free maternity laws under the banner of the right to reproductive health, in practice there has been significant retrenchment in access to primary health care across the hemisphere, including maternity and prenatal services. This retrenchment is often couched in terms of enhancing the consumer's 'right to choose' (Burrows 2008). The retraction of state commitments to public health has meant the rapid expansion of privatised medical care, leading to high C-section rates and a burgeoning infertility industry (Roberts 2012). Assisted reproductive technologies, including in-vitro fertilisation, flourish in Latin America despite the Catholic Church's total condemnation and the fact that the legal rights-based focus on conception situates IVF in ambiguous legal territory (Center for Reproductive Rights 2004). Ecuador provides a painful example of how divergent rights-based reproductive policies congeal in the production of new consumers. Some of the poorer women who end up in IVF clinics in Ecuador became infertile after an unsafe abortion. One could argue in this case that state institutions that govern reproduction in the name of the 'rights of the unborn'

have directly produced consumers ‘with rights’ for privatised reproductive medicine (Roberts 2012).

### **A population of migrants**

Reproductive governance provides a way to trace how different institutional actors are shaping the management of national populations in the post-Cold War era. Indeed the very notion of ‘population’ itself might be undergoing shifts, given that life and reproduction are conceptualised mostly in terms of individual rights. Now population concerns frequently congregate around migrations to North America and Europe and between Latin American nations. Here, older concerns about overpopulation resurface in the contradictory figure of the migrant. The departure of the émigré leaves a gap, resulting in lower economic productivity and skewed sex ratios in the country of origin, as well as a significant influx of remittances. These same immigrants are often portrayed as a threat to the body politic in their destination countries, where they are portrayed as devouring scarce resources, bearing disease, breeding indiscriminately, and otherwise challenging the boundaries of decency and citizenship. Tensions between these contradictory portraits can be seen in concerns over pregnant Nicaraguan women who migrate to Costa Rica, where they are depicted as exploiting the resources and goodwill of their main benefactor, the Costa Rican state (Goldade 2007). While these migrants are increasingly demonised as sucking resources from their host nation, the foetus is increasingly made into a citizen worthy of protection and juridical rights (although not state provided social services). Foetal citizens with juridical rights are brought into social being by policies that prohibit doctors from prescribing medications or treatments that might restrict or interfere with conception, implantation, or gestation. In April 2008, the Chilean Constitutional Court overturned the government’s new policy making emergency contraception available, free and on demand, to all women over age 14 who requested it. This ruling effectively privileges foetal citizens over women, by prohibiting the state from prescribing medications that would prevent unwanted conception. This contestation produced two of the duelling figures in the new rationality of reproductive governance; the immigrant-as-resource-depleter to whom rights can be denied, versus the rights-bearing foetus-as-citizen who takes nothing from the neoliberal state.

### **Reproductive governance**

To paraphrase anthropologists Faye Ginsburg and Rayna Rapp, a focus on the governance of reproduction belongs at the centre of social theorising about contemporary Latin American politics and economies (Ginsburg and Rapp 1995, 1). Characterising reproductive governance in Latin America’s varied states requires that anthropologists pay close ethnographic attention to what politicians, NGOs, churches, and women’s groups gain, rhetorically and politically, by claiming to be concerned about ‘the rights of the unborn’, ‘the rights of women’, ‘reproductive rights’, ‘natural rights’, ‘indigenous rights’, and ‘consumer rights’. It requires attention to the new spate of laws designed to increase surveillance, regulation, and prosecution, and to how reproductive governance is meant to enact an ideal

political imaginary. How, in other words, might reproductive governance produce certain kinds of subjects and effects?

One of the authors' main methodological concerns is that a fine-grained ethnographic focus on nations be kept in conversation with an analysis of regional, hemispheric and transnational political and economic processes. The country-specific examples offered in this essay provide important instances of local possibility and constraint, but the scholarship on reproduction and population has often been limited by 'research questions based on national histories' rather than pan-national or global questions (Bashford 2006, 173). Comparative and collaborative ethnography in conjunction with cross-regional historical and political economic analysis can make more apparent how political and economic processes enact certain subject positions that can seem so ahistorical, such as irresponsible mothers or the unborn, or the concept of rights itself. Research across borders shifts the focus towards understanding the deployment of rights rhetoric and changing rationalities of reproduction throughout the region. The concept of reproductive governance should be applicable to other settings where shifting political rationalities call forth new moral regimes and rights-based actors in the domain of reproduction. This kind of research allows for richer comprehension of how new laws, social movements, moral incitements and economic inducements are working to police, regulate, and coerce reproductive bodies and to produce self-controlled subjects who will embody contemporary forms of governance.

Reproductive governance in Latin America has always reproduced social distinctions, identities, alliances and produced subjects and citizens, at times solidifying ethnic boundaries, while at others producing powerful political alliances, complacent mothers, and industrious wage-earners. At this historical juncture an analytics of reproductive governance can elucidate how the national and transnational configuration that produces the rhetoric of rights makes new kinds of reproductive actors and fits within larger social movements and the geopolitical and economic calculus of Latin American nation-states.

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### Notes on contributors

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## Note

1. In an internationally publicised case that occurred a week after the new legislation was signed into effect in Nicaragua, an 18-year old woman died of septic shock after an illegal abortion because doctors were afraid to give her antibiotics lest they be accused as accomplices.

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