

Protest as Counter-Hegemonic Human Rights Work: Lessons from Abortion Rights Movements

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Abstract

International human rights institutions provide critical support and leverage to social movements, but rather than viewing this as a top-down process, more attention ought to be paid to the bottom-up realisation of human rights. In this article, I argue that protest is an influential aspect of grassroots human rights repertoires by considering the role of protest in abortion rights movements. While international human rights bodies have increasingly placed pressure on states to provide access to abortion services, it is often the work of domestic social movements that ultimately results in legal change. However, this is not always through legal mechanisms – counter-hegemonic rights movements avoid the use of formal mechanisms, and protest is an important avenue for these movements. I demonstrate this in relation to the

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abortion rights movements of Ireland and Argentina, concluding that protest ought to be understood as ‘human rights work’.

Keywords

international human rights – social movements – abortion – counter-hegemonic rights movements – protest – vernacularisation

I. Introduction

The status of abortion varies significantly worldwide, from absolute restrictions in some countries to abortion available at the request of the pregnant person in others.¹ Abortion is a heavily contested issue, and abortion rights advocates must contend with opposition from anti-abortion actors, including from within national governments and judiciaries. While appeals to international human rights bodies can place pressure on national institutions, scholars have increasingly identified right-wing legal mobilisation as undermining human rights claims, including on gender-based rights issues such as abortion.² International human rights have thus been critiqued as limited or ineffective in pushing for domestic abortion law reform.³ However, such a critique draws a rigid line between international human rights law and grassroots human rights movements, when the latter have been highly influential in the implementation and monitoring of human rights at the domestic level.⁴

My starting point for this article is therefore to take international human rights mechanisms and the work of localised rights movements as part of a holistic human rights framework. In relation to abortion rights movements in Argentina and Ireland, I draw on Enright, McNeilly, and De Londras’

¹ Center for Reproductive Rights, ‘The World’s Abortion Laws’, <<https://reproductive-rights.org/maps/worlds-abortion-laws/>>, last access 11 March 2026.

² See, for example, Karolina Kocemba and Michał Stambulski, ‘Populism, Non-State Actors and Right-Wing Legal Mobilization in Europe’, *International Journal of Law in Context* 20 (2024), 297-306.

³ See, for example, Lynsey Mitchell, ‘Reading Narratives of Privilege and Paternalism: the Limited Utility of Human Rights Law on the Journey to Reform Northern Irish Abortion Law’, *N.I.L.Q.* 72 (2021), 89-131; Rachel Rebouché, ‘The Limits of Reproductive Rights in Improving Women’s Health’, *Ala. L. Rev.* 63 (2011), 1-42.

⁴ See, for example, Kiyoteru Tsutsui, Claire Whitlinger and Alwyn Lim, ‘International Human Rights Law and Social Movements: States’ Resistance and Civil Society’s Insistence’, *Annual Review of Law and Social Science* 8 (2012), 367-396.

concept of ‘feminist law work’⁵ to argue that protest is an important aspect of feminist ‘human rights work’. I argue that this protest is thus influential in the realisation of human rights standards, which ought to be recognised by international human rights bodies. It is in my theoretical framing of feminist human rights work as incorporating social constructions of human rights standards, non-legal strategies such as protest, and the incorporation of vernacular rights frames in these protests that I make my original contribution to the existing literature on social movements and human rights. As de Búrca notes, any causal relationship between international human rights standards and domestic law reform is difficult, if at all possible, to substantiate.⁶ Thus, it is not my argument that protest *alone* can achieve human rights realisation in relation to issues such as abortion, but rather that protest is an influential aspect of grassroots human rights repertoires.

Section II. firstly sets out the development of abortion rights standards within the international human rights framework. I highlight the influence of transnational feminist networks in the recognition of reproductive rights, including abortion, at the United Nations (UN), and the limitations of the standards on abortion currently recognised by international human rights bodies. Secondly, I explore the scrutiny that Argentina and Ireland’s previous abortion regimes had received from these bodies, which did not manifest in legal change. In light of these limitations, I go on to develop my framing of protest as human rights work in Section III. Firstly, I distinguish the direct human rights work of non-governmental organisations (NGOs) at the UN from alternative and indirect strategies such as protest, thus developing my framing of human rights work as encompassing these alternative strategies. I then explore scholarship on counter-hegemonic rights movements to illustrate the continued importance of this human rights work where formal mechanisms are ineffective or inaccessible.

In Section IV., I further develop my argument that feminist human rights work encompasses protest in the context of abortion rights protests in Argentina and Ireland. I draw upon existing literature on vernacularisation and vernacular rights cultures to explain how human rights concepts are transformed within local contexts – human rights work and protest repertoires cannot be easily transplanted from one context to another. The examples I utilise in this section are not positioned as replicable; instead, I explore the differing abortion rights protests of both countries in order to demonstrate

⁵ Máiréad Enright, Kathryn McNeilly and Fiona de Londras, ‘Abortion Activism, Legal Change, and Taking Feminist Law Work Seriously’, *N. I. L. Q.* 71 (2020), 359-385.

⁶ Gráinne de Búrca, *Reframing Human Rights in a Turbulent Era* (Oxford University Press 2021), 187.

how protest can be an important aspect of feminist human rights work. I have chosen to put Argentina and Ireland's movements in conversation here for the following reasons: 1) both countries previously had highly restrictive abortion regimes which underwent progressive reform in recent years; 2) the previous abortion regimes of both countries were subjected to scrutiny by international human rights bodies, which did not directly lead to reform; 3) local social movements, including protest movements, were influential in the law reforms of both countries; 4) the protest framings of movements in both countries drew upon human rights, but in culturally specific ways. These examples thus highlight the continuing resonance of human rights and the importance of protest as a form of feminist human rights work aimed at abortion law reform.

II. Abortion and International Human Rights Law

1. The Development of Abortion Rights Standards

The gradual development of international human rights standards on abortion is an example of the social construction of rights norms, defined by Stammers as meaning that the 'ideas and practices in respect of human rights are created, re-created, and instantiated by human actors in particular socio-historical settings and conditions'.⁷ The transnational feminist movement pushed for the recognition of gender-based rights issues at the international level, which eventually led to four United Nations World Conferences on Women aimed at developing the idea of 'women's rights as human rights', the Declaration on the Elimination of Discrimination Against Women which was subsequently transformed into a binding Convention, and the 'mainstreaming' of gender issues across United Nations activities.⁸ Stemming from the emergence of a global women's health network in the 1970s, the coalition of activist organisations and sexual and reproductive health service providers was crucial in articulating reproductive rights norms at the UN.⁹ In 1993, in time for the Vienna World Conference, the Women's Global Network for

⁷ Neil Stammers, 'Social Movements and the Social Construction of Human Rights', HRQ 21 (1999), 980-1008 (980).

⁸ Maud Anne Bracke, 'Contesting "Global Sisterhood": The Global Women's Health Movement, the United Nations and the Different Meanings of Reproductive Rights (1970s-80s)', *Gender & History* 35 (2023), 811-829; S. Laurel Weldon, Amber Lusvardi, Kaitlin Kelly-Thompson and Summer Forester, 'Feminist Waves, Global Activism, and Gender Violence Regimes: Genealogy and Impact of a Global Wave', *Women's Studies International Forum* 99 (2023), 1-10; Charlotte Bunch, 'Opening Doors for Feminism: UN World Conferences on Women', *Journal of Women's History* 24 (2012), 213-221.

⁹ Bracke (n. 8), 812.

Reproductive Rights (WGNRR), which formed in 1984, was formally recognised by the UN as an expert organisation, and invited to submit evidence.¹⁰ The WGNRR was an active participant in the subsequent two conferences which shaped reproductive rights at the UN, including the International Conference on Population and Development (ICPD), which took place in Cairo in 1994, where reproductive rights were formally recognised within the international human rights framework for the first time.¹¹

Feminist networks based in the Global South, like the WGNRR and the Latin American and Caribbean Encuentros, articulated particularly progressive norms surrounding sexual and reproductive rights.¹² The Fifth Latin American and Caribbean Encuentro took place in Argentina in 1990, culminating in calls for the decriminalisation of abortion and the recognition of September 28 as the ‘Day of the Right to Abortion’ – now recognised internationally as Safe Abortion Day.¹³ These calls for abortion decriminalisation came four years before the ICPD and the start of the development of abortion rights standards by human rights bodies. Morgan thus refers to Argentina, for example, as a ‘powerhouse of knowledge production in sexual and reproductive rights’ and critiques the idea of a one-directional flow from reproductive rights movements in the West to the Global South.¹⁴ However, this has not always been reflected in the framing of abortion rights within feminist movements or international human rights law; the Reproductive Justice movement was formed around the ICPD to critique the lack of focus on the reproduction-related injustices faced by marginalised women, viewing the ‘reproductive rights’ frame as having a limited focus on reproductive choice.¹⁵ Moreover, pressures from anti-abortion actors (including some State Parties and the Catholic Church) have led treaty bodies to take a more restrained approach than that advocated for by these feminist networks. For example, the ICPD Programme of Action barely mentioned abortion, and instead of advocating for decriminalisation, encouraged states to simply ‘eliminate the need for abortion’ through family planning efforts.¹⁶

¹⁰ Bracke (n. 8), 821.

¹¹ UN, Programme of Action of the International Conference on Population and Development, 5-13 September 1994, A/CONF.171/13, para. 7.3.

¹² Bracke (n. 8), 817-820.

¹³ Jazmín Bazán, ‘El aborto en América Latina y el Caribe’, *La Izquierda Diario*, 28 September 2019; Mariana Carbajal, ‘Meet the Latin American Women Who Launched the Global Day for Safe Abortion’, *OpenDemocracy*, 28 September 2021.

¹⁴ Lynn M. Morgan, ‘Reproductive Rights or Reproductive Justice? Lessons from Argentina’, *Health and Human Rights Journal* 17 (2015), 136-147 (143).

¹⁵ Kimala Price, ‘What is Reproductive Justice?: How Women of Color Activists Are Redefining the Pro-Choice Paradigm’, *Meridians* 10 (2010), 42-65 (56).

¹⁶ UN (n. 11), para. 8.25.

Since then, human rights standards have evolved to account for the importance of access to abortion. Abortion has not been recognised as a distinct human right within the international system, but is encompassed within other rights such as: the right to life (Article 6), freedom from cruel, inhuman and degrading treatment (Article 7), and the right to privacy (Article 17) under the International Covenant on Civil and Political Rights (ICCPR); the right to health (Article 12) under the International Covenant on Economic, Social, and Cultural Rights (ICESCR); and the right to decide on the number and spacing of one's children (Article 16(e)), as well as other rights relating to gender equality, under the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW).¹⁷ The Human Rights Committee (HRC) has highlighted that Article 6 ICCPR requires that states guarantee, at a minimum, access to abortion where the life or health of the pregnant person is at risk, where the pregnancy resulted from sexual crime, and in cases of fatal foetal impairments.¹⁸ The HRC further recommends the decriminalisation of abortion and requires that legal abortion is accessible in practice, in order to avoid the maternal mortality and morbidity associated with unsafe abortion.¹⁹

The Committee on Economic, Social, and Cultural Rights (CESCR) and the CEDAW Committee have expanded on the requirements of access to highlight that states should take positive measures to tackle any barriers (for example, geographical barriers) to access, and ensure that abortion services are delivered in timely manner.²⁰ The CEDAW Committee has also linked restrictions on abortion to harmful gender stereotypes around motherhood as women's primary reproductive role, which states have an obligation to modify under Article 5 CEDAW.²¹ Further, the Committee on the Rights of the Child (CRC) has commented on the importance of children's sexual and reproductive rights, which should include access to safe abortion services and post-abortion care 'irrespective of whether abor-

¹⁷ CEDAW, 'General Recommendation No. 24: Article 12 of the Convention (Women and Health)', (1999) A/54/38/Rev.1; HRC, 'General Comment No. 28: Article 3 (The Equality of Rights Between Men and Women)', (2000) CCPR/C/21/Rev.1/Add.10, paras 10-11, 20; CESCR, 'General Comment No. 22 on the Right to Sexual and Reproductive Health (Article 12 of the ICESCR)' (2016) E/C.12/GC/22.

¹⁸ HRC, 'General Comment No. 36: Article 6 (Right to Life)', (2019) CCPR/C/GC/36, para. 8.

¹⁹ HRC, General Comment No. 36 (n. 18), para. 8; Fiona de Londras et al., 'The Impact of Criminalisation on Abortion-Related Outcomes: a Synthesis of Legal and Health Evidence', *BMJ Global Health* 7 (2022), 1-13.

²⁰ CEDAW; General Recommendation No. 24 (n. 17), paras 21-25; CESCR, General Comment No. 22 (n. 17), para. 41.

²¹ CEDAW, *L. C. v. Peru*, (2011) CEDAW/C/50/D/22/2009, para. 8.15.

tion itself is legal'.²² Combined, the human rights standards on abortion established by these four treaty bodies are relatively expansive. Simply legalising abortion on the minimum grounds set out by the HRC is unlikely to comply with these standards,²³ and the recommendations around gender-equality and accessibility can be interpreted to require state action on barriers such as conscientious objection, the implementation of telemedicine, and permitting self-managed abortion outside of the medico-legal system.²⁴ Thus, under international human rights law, states have obligations to decriminalise and actively provide access to abortion in a range of circumstances.

These standards have been increasingly cited by domestic courts, and have influenced legal change in various contexts.²⁵ However, there are also limitations to the approaches of these human rights bodies. While the circumstances that the HRC has delineated as necessary for State Parties to legalise abortion are at a *minimum*, the focus on these exceptional grounds masks the reasons behind the majority of abortions, which do not concern health risks alone.²⁶ None of the UN treaty bodies have explicitly advocated for abortion on social or economic grounds, or at the request of the pregnant person. Instead, they tend to maintain a public health approach, focusing on the harms associated with unsafe abortion, in order to avoid the moral debates surrounding abortion.²⁷ This approach has enabled human rights bodies to take a 'compromise' position by advocating for access to abortion while avoiding taking a stance that might be seen as overly supportive of it. While this might be strategic in theory, in terms of encouraging State Parties to incrementally make progress on abortion rights, it leaves gaps in standards

²² CRC, 'General Comment No. 15 on the Right of the Child to the Enjoyment of the Highest Attainable Standard of Health (Article 24)', (2013) CRC/C/GC/15, para. 70.

²³ Fiona de Londras et al., 'The Impact of 'Grounds' on Abortion-Related Outcomes: a Synthesis of Legal and Health Evidence', *BMC Public Health* 22 (2022), 1-14.

²⁴ Zoe L. Tongue, 'On Conscientious Objection to Abortion: Questioning Mandatory Referral as Compromise in the International Human Rights Framework', *Medical Law International* 22 (2022), 349-371 (370); Zoe L. Tongue, 'Telemedical and Self-Managed Abortion: A Human Rights Imperative?', *European Journal of Health Law* 30 (2023), 158-181.

²⁵ Rachel Rebouché, 'Abortion Rights as Human Rights', *Social & Legal Studies* 25 (2016), 765-782; Joanna B. Fine, Katherine Mayall and Lilian Sepúlveda, 'The Role of International Human Rights Norms in the Liberalization of Abortion Laws Globally', *Health and Human Rights* 19 (2017), 69-79.

²⁶ Rebecca Smyth, 'Abortion Exceptionalism in International Human Rights Law', *HRQ* 46 (2024), 671-711 (684).

²⁷ Christina Zampas and Jaime M. Gher, 'Abortion as a Human Right – International and Regional Standards', *HRLR* 8 (2008), 249-294; Zoe L. Tongue, "'Abortion Is Healthcare": the Promise and Pitfalls of Framing Abortion Under the Right to Health' in: Elizabeth Wicks and Nataly Papadopoulou (eds), *Research Handbook on Human Rights Law and Health* (Edward Elgar 2025), 159-180.

that can be exploited by anti-abortion states in practice.²⁸ Smyth thus criticises international human rights law for maintaining ‘abortion exceptionalism’ – that is, the excessive scrutiny and regulation that abortion is subjected to, relative to other issues, which perpetuates ‘the assumptions that abortion is only acceptable in certain situations, and that it is only in extreme cases that human rights will be engaged’.²⁹ As such, abortion rights movements often reframe and repackage human rights standards to advance more progressive approaches, whilst nonetheless relying on the support of human rights bodies.

2. Abortion Rights Scrutiny in Argentina and Ireland

Prior to the legalisation of abortion in Argentina in 2020 and Ireland in 2018, treaty bodies had addressed the failures of both governments to comply with these human rights standards and had made recommendations for reform. In 2011, the HRC heard the case of *L. M. R. v. Argentina*, in which a young woman with a mental disability had become pregnant as a result of rape.³⁰ She had an illegal abortion after being denied a termination by multiple nearby hospitals, despite rape and mental disability being legal grounds for abortion.³¹ Judicial proceedings had become the norm for authorising abortions on the rape ground, which caused a delay in obtaining an abortion.³² Healthcare providers had then refused to terminate the pregnancy as they stated it was too far advanced.³³ The HRC accepted that the woman had suffered cruel, inhuman, and degrading treatment as a result of being forced by the state to endure a pregnancy resulting from rape, and subsequently have an illegal abortion.³⁴ As a result of this case, the Argentinian state was under an obligation to prevent future violations by ensuring access to abortion services on the legal grounds.³⁵ However, the Argentinian government took no action in response, though the HRC’s recommendations were implemented by the Supreme Court the following year when it heard a similar case.³⁶ The Argentin-

²⁸ Magdalena Furgalska and Fiona de Londras, ‘Lawfare and Reproduction: Reflections on the Polish Constitutional Tribunal’s Abortion Decision’, *Isr. L. R.* 55 (2022), 285-301 (287).

²⁹ Smyth (n. 26), 684.

³⁰ HRC, *L. M. R. v. Argentina*, (2011) CCPR/C/101/D/1608/2007.

³¹ HRC, *L. M. R.* (n. 30), paras 2.1-2.8.

³² HRC, *L. M. R.* (n. 30), para. 2.6.

³³ HRC, *L. M. R.* (n. 30), para. 2.7.

³⁴ HRC, *L. M. R.* (n. 30), para. 9.2.

³⁵ HRC, *L. M. R.* (n. 30), para. 11.

³⁶ Supreme Court of Argentina, *F. A. L. s/ Medida Autosatisfactiva*, Expediente Letra “F”, No. 259, Libro XLVI (2012).

ian Supreme Court clarified the relevant legal grounds for abortion and explicitly rejected the informal norm around judicial authorisation.³⁷

In subsequent years, treaty bodies had commented in Concluding Observations on the broader issues with the country's restrictive abortion regime. The HRC expressed particular concerns over the criminalisation of abortion and obstruction of access by medical professionals who conscientiously objected to the provision of abortion services, forcing people to resort to clandestine abortions.³⁸ The CESCR also raised concerns over the rate of unsafe abortion and maternal mortality, and thus emphasised the importance of safe access to medical abortion pills and that people receiving abortion-related care were treated with dignity.³⁹ Both CESCR and the CEDAW Committee commented on the unsuccessful attempts of the abortion rights movement in Argentina to pass a bill through Congress which would decriminalise abortion, and both treaty bodies recommended that the government adopt this legislation.⁴⁰ Again, the government took no action in response to these recommendations.

The HRC, CESCR, CEDAW Committee, and CRC had also expressed concerns in Concluding Observations over Ireland's restrictive abortion regime. The HRC, back in 2014, had recommended that Ireland amend its constitutional prohibition on abortion to permit abortion on the grounds of rape, fatal foetal impairments, and risks to the pregnant person's health.⁴¹ The HRC also recommended clarification on the existing legal ground for abortion where there was a 'real and substantive risk' to the pregnant person's life.⁴² The CEDAW Committee and CRC additionally recommended the decriminalisation of abortion in all other cases, and the provision of post-abortion care without the threat of criminal sanction after an illegal abortion.⁴³ The CESCR broadly recommended that the state take all necessary steps to revise its law on abortion, including a referendum to amend the

³⁷ Supreme Court of Argentina, *F, A. L.* (n. 36), paras 17 f.

³⁸ HRC, 'Concluding Observations on the Fifth Periodic Report of Argentina', (2016) CCPR/C/ARG/CO/5, paras 11 f.

³⁹ CESCR, 'Concluding Observations on the Fourth Periodic Report of Argentina', (2018) E/C.12/ARG/CO/4, paras 55 f.

⁴⁰ CESCR, Concluding Observations on Argentina (n. 39); CEDAW, 'Concluding Observations on the Seventh Periodic Report of Argentina', (2016) CEDAW/C/ARG/CO/7, paras 32 f.

⁴¹ HRC, 'Concluding Observations on the Fourth Periodic Report of Ireland', (2014) CCPR/C/IRL/CO/4, para. 9(a).

⁴² HRC, 'Concluding Observations on Ireland' (n. 41), para. 9(b).

⁴³ CEDAW, 'Concluding Observations on the Combined Sixth and Seventh Periodic Reports of Ireland', (2017). CEDAW/C/IRL/CO/6-7, para. 43(a), (d); CRC, 'Concluding Observations on the Combined Third and Fourth Periodic Reports of Ireland', (2016) CRC/C/IRL/CO/3-4, para. 58(a).

constitutional prohibition.⁴⁴ Following a judgment from the European Court of Human Rights, Ireland had passed the Protection of Life During Pregnancy Act 2013 to clarify the criminal offence of abortion and the exception based on a risk to life.⁴⁵ However, this piece of legislation was criticised by the HRC, CESCR, CEDAW Committee, and CRC for falling below the standards established at the international human rights level.⁴⁶

In 2016 and 2017, the HRC heard individual complaints from Amanda Mellet and Siobhán Whelan, two women from Ireland who had been forced to travel to England for abortions after the foetuses they were carrying were diagnosed with fatal foetal impairments.⁴⁷ They were unable to access after-care and bereavement counselling upon their return to Ireland, which they would have received had they carried on with their pregnancies.⁴⁸ The HRC found that the distress and suffering that both women had experienced, which was attributable to the state's abortion regime, amount to cruel, inhuman, and degrading treatment in violation of Article 7 ICCPR.⁴⁹ The HRC also found violations of the right to privacy under Article 17 and the right to non-discrimination under Article 26.⁵⁰ Ireland was instructed to amend its abortion regime and ensure access to abortion in order to prevent future violations.⁵¹ Compensation was paid to both women, and the Irish government noted its plans for a referendum on abortion law reform to take place in 2018.⁵²

The issue of access to abortion in Argentina and Ireland had thus been well-scrutinised by international human rights bodies, with the HRC making reform recommendations to both states as the result of individual communications. However, the direct impact of these comments and recommendations was relatively limited. In Argentina, the government took no action to

⁴⁴ CESCR, 'Concluding Observations on the Third Periodic Report of Ireland', (2015) E/C.12/IRL/CO/3, para. 30.

⁴⁵ ECtHR (Grand Chamber), *A, B, and C v. Ireland*, judgment of 16 December 2010, no. 25579/05.

⁴⁶ HRC, 'Concluding Observations on Ireland' (n. 41), para. 9; CESCR, 'Concluding Observations Ireland' (n. 43), para. 30; CEDAW, 'Concluding Observations on Ireland' (n. 43), para. 43(a); CRC, 'Concluding Observations on Ireland' (n. 43), para. 57.

⁴⁷ HRC, *Mellet v. Ireland*, (2016) CCPR/C/116/D/2324/2013; HRC, *Whelan v. Ireland*, (2017) CCPR/C/119/D/2425/2014.

⁴⁸ HRC, *Mellet* (n. 47), para. 2.5; HRC *Whelan* (n. 47), para. 2.6.

⁴⁹ HRC, *Mellet* (n. 47), paras 7.4-7.6; HRC *Whelan* (n. 47), paras 7.5-7.7.

⁵⁰ HRC, *Mellet* (n. 47), paras 7.8, 7.10; HRC *Whelan* (n. 47), paras 7.9, 7.11.

⁵¹ HRC, *Mellet* (n. 47), para. 9; HRC *Whelan* (n. 47), para. 9.

⁵² Center for Reproductive Rights, 'Mellet v. Ireland, 2016; Whelan v. Ireland, 2017 (United Nations Human Rights Committee)', 18 March 2021, <<https://reproductiverights.org/cases/mellet-v-ireland-whelan-v-ireland-united-nations-human-rights-committee/>>, last access 18 March 2026.

reform the law in line with human rights standards, although these standards did influence procedural reform through the domestic courts. There are issues with the effectiveness of international human rights because of UN human rights bodies' lack of strong follow-up and enforcement mechanisms, which is in part due to a lack of capacity and resources.⁵³ The primary means of assessing compliance with human rights standards is through state reporting, but there is a significant backlog of overdue state party reports and consequential delays in the review process.⁵⁴ Argentinian NGOs sought to place pressure on the national government by appealing to international human rights bodies, for example submitting shadow reports to CEDAW, but this did not culminate in legal change.⁵⁵ In Ireland, while the government did eventually issue a referendum in order to amend its constitutional prohibition on abortion, the fact that a referendum was required to make constitutional amendments precluded the direct implementation of international human rights standards on abortion. Where human rights realisation is not achievable through these mechanisms, social movements must adopt alternative strategies, such as protest, to demand state action.

III. Framing Protest as Human Rights Work

1. Social Movements, Protest, and International Human Rights

Social movements play an important role within human rights law. Reiners, for example, has recognised the ways in which treaty monitoring bodies and NGOs form informal 'transnational law-making coalitions' by closely collaborating on human rights treaty interpretations and recommendations.⁵⁶ National NGOs have localised knowledge and valuable expertise in the specific and general human rights issues within their country, while international NGOs can facilitate connections between domestic organisations and human rights bodies, lend support to domestic organisations, and add to the

⁵³ Alicia Ely Yamin, *When Misfortune Becomes Injustice* (Stanford University Press 2020), 149.

⁵⁴ UNHR Office of the High Commissioner, 'Human Rights Committee Holds Twelfth Informal Meeting with States Parties, Discusses Challenges Relating to the Work of the Committee', 18 July 2022, <<https://www.ungeneva.org/en/news-media/meeting-summary/2022/07/le-comite-des-droits-de-lhomme-tient-une-reunion-informelle-avec>>, last access 18 March 2026

⁵⁵ Debora Lopreite, 'The Long Road to Abortion Rights in Argentina (1983-2020)', *Bulletin of Latin American Research* 42 (2023), 357-371 (361).

⁵⁶ Nina Reiners, *Transnational Lawmaking Coalitions for Human Rights* (Cambridge University Press 2021), 4.

pressure placed on national governments.⁵⁷ NGOs across both levels are therefore considered to be ‘the critical link in improving a state’s human rights performance’.⁵⁸ Indeed, it is independent monitoring and reporting by domestic and international feminist organisations that ‘expose abuses in ways that activate states to improve performance’.⁵⁹ Weldon and Htun have similarly found that a strong feminist movement was a significant predictor of positive policy responses to gender-based violence, particularly where this was supported by international norms.⁶⁰ International treaty commitments remain important alongside domestic activism, as they create new opportunities for domestic social mobilisation.⁶¹ Thus, international human rights norms lend support to domestic social movements, and in turn, domestic social movements influence the implementation of international human rights norms. Keck and Sikkink refer to this dynamic as a ‘boomerang’ effect: national NGOs appeal to international bodies and organisations, who can then put pressure on the national government alongside them.⁶²

NGOs differ from other expressions of social movements in that they have a formal, hierarchical structure. While the role of NGOs within the international human rights framework is relatively limited, these non-states actors often do still have access to the international plane – whereas others do not.⁶³ Grady and Robins have distinguished between ‘old’ civil society, which privileges the use of advocacy and state institutions, and ‘new’ civil society, which prioritises independent action and often seeks alternatives to state-driven mechanisms.⁶⁴ They highlight that where NGOs typically engage with the state based on an external normative framework (in this case, the international human rights framework), ‘new’ civil society movements construct

⁵⁷ Fiona McGaughey, ‘From Gatekeepers to GONGOS: A Taxonomy of Non-Governmental Organisations Engaging With United Nations Human Rights Mechanisms’, *NQHR* 36 (2018), 111-132 (119-125).

⁵⁸ Amanda Murdie and Tavishi Bhasin, ‘Aiding and Abetting: Human Rights INGOs and Domestic Protest’, *J. Conflict Resolut.* 55 (2011), 163-191 (164).

⁵⁹ Joanne Sandler and Anne Marie Goetz, ‘Can the United Nations Deliver a Feminist Future?’, *Gender and Development* 28 (2020), 239-263 (258).

⁶⁰ S. Laurel Weldon and Mala Htun, ‘Feminist Mobilisation and Progressive Policy Change: Why Governments Take Action to Combat Violence Against Women’, *Gender and Development* 21 (2013), 231-247 (236, 243 f.).

⁶¹ Beth A. Simmons, *Mobilizing for Human Rights* (Cambridge University Press 2009), 14 f.

⁶² Margaret E. Keck and Kathryn Sikkink, *Activists Beyond Borders* (Cornell University Press 2014), 36.

⁶³ McGaughey (n. 57), 213.

⁶⁴ Paul Grady and Simon Robins, ‘Rethinking Civil Society and Transitional Justice: Lessons from Social Movements and ‘New’ Civil Society’, *International Journal of Human Rights* 21 (2017), 956-975 (957).

alternative conceptions of rights and the means of claiming them.⁶⁵ ‘New’ civil society therefore has a much more informal and indirect relationship with international bodies, often *intentionally* avoiding engaging with these legal mechanisms. This does not mean, however, that these alternative or new expressions of social movements are not relevant to questions of human rights realisation; rather, I argue in this article that ‘new’ civil society uses protest as a tool for constructing and implementing rights discourses in ways that resonate within local contexts.

Protest movements are important for the realisation of human rights, particularly where the use of state-driven mechanisms is restricted, ineffective, or undesirable. I use the term ‘protest movement’ to describe ‘a collectivity of actors who want to achieve their shared goal or goals by influencing decisions of a target’, and while protest might be an aspect of a broader social movement, it is distinguishable on the basis of the level of organisation involved.⁶⁶ Protest, as an indirect way of influencing governments or policy-makers, is a political resource which is available to those who may lack the means to engage with organisations or more direct routes for change.⁶⁷ Della Porta and Diani thus define protest as ‘*nonroutinized* ways of affecting political, social, and cultural processes’.⁶⁸ Protest typically takes place through the occupation of public space in rallies, marches, sit-ins, vigils, and strikes, but can also take more ‘everyday’ forms such as boycotts, artistic and visual expression, and mutual aid.⁶⁹ Thus, while protest often occurs in ‘cycles’ of escalating collective action, some protest movements are able to sustain themselves over time through the creation of ‘social movement communities’.⁷⁰ Within these communities, public protest can be one of numerous strategies adopted as part of a longer-term campaign – not just as a response to a specific event or political opportunity.

Protest is protected at the international level under the rights to freedom of expression and freedom of assembly.⁷¹ In 2020, the Human Rights Com-

⁶⁵ Grady and Robins (n. 64), 959.

⁶⁶ Karl-Dieter Opp, *Theories of Political Protest and Social Movements* (Routledge 2009), 41-44.

⁶⁷ Michael Lipsky, ‘Protest as a Political Resource’, *Am. Polit. Sci. Rev.* 62 (1986), 1144-1158.

⁶⁸ Donatella Della Porta and Mario Diani, *Social Movements: An Introduction* (2nd edn, Wiley-Blackwell 2009), 165 [emphasis added].

⁶⁹ Verta Taylor and Nella Van Dyke, ‘“Get up, Stand up”: Tactical Repertoires of Social Movements’ in: David A. Snow, Sarah A. Soule and Hanspeter Kriesi (eds), *The Blackwell Companion to Social Movements* (Blackwell 2004), 262-293 (264 f.).

⁷⁰ Sidney Tarrow, *Struggling to Reform: Social Movements and Policy Change During Cycles of Protest* (Ithaca 1983), 36-39; Suzanne Staggenborg, ‘Social Movement Communities and Cycles of Protest: The Emergence and Maintenance of a Local Women’s Movement’, *Social Problems* 45 (1998), 180-204 (182).

⁷¹ Arts 19, 21 ICCPR.

mittee issued General Comment 37 on the right to freedom of assembly, recognising that this right, alongside others, ‘constitutes the very foundation of a system of participatory governance based on democracy, human rights, the rule of law and pluralism’.⁷² Moreover, the HRC views peaceful assembly as ‘a valuable tool that can and has been used to recognize and realize a wide range of other rights, including economic, social and cultural rights’.⁷³ The current Special Rapporteur for the Right to Health, Dr Tlaleng Mofokeng, has identified civil society involvement (beyond NGOs) acts as a guarantee for the effective realisation of the right to health by acting as a mechanism for accountability.⁷⁴ However, as Kriener has identified, ‘protest movements sit on the fringes of international law’ as their ‘extra-institutional character’ fits uncomfortably within the institutionalised and routinised nature of international law, including international human rights law.⁷⁵ Wall thus critiques the way in which these international bodies frame protest as having a primarily communicative function, rather than a disruptive one.⁷⁶ Protest, as a mode of constituent power, represents a threat to state power, but international human rights law positions that same state power as having primacy over human rights protection.⁷⁷ This tension obscures the importance of protest, as a strategy set apart from the legal mechanisms that might be seen (by the state) as more legitimate, in challenging states engaged in rights violations.

Much of the academic literature on the relationship between social movements and human rights focuses on NGOs and those more organised social movements; while Franklin has considered the historical use of human rights protest as associated with the democratisation of Argentina and Chile,⁷⁸ there has otherwise been a limited recognition of protest (rather than social movements more broadly) as an important avenue for the realisation of human rights. There is a focus on those aspects of social movements that are more organised, such as through NGOs, and on *legal* mobilisation: the use of legal

⁷² HRC, ‘General Comment No. 37 on the Right of Peaceful Assembly (Article 21)’, 27 July 2020, CCPR/C/GC/37, para. 1.

⁷³ HRC, General Comment No. 37 (n. 72), para. 2.

⁷⁴ Tlaleng Mofokeng, ‘Report of the Special Rapporteur on the Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health – Sexual and Reproductive Health Rights: Challenges and Opportunities During the COVID-19 Pandemic’, Report of 16 July 2021, A/76/172, para. 89.

⁷⁵ Florian Kriener, ‘The International Law of Protest’, ASIL Proceedings 117 (2024), 323–326 (323).

⁷⁶ Illan rua Wall, ‘The Right to Protest’, International Journal of Human Rights 28 (2024), 1378–1393 (1382 f.).

⁷⁷ Wall, ‘Right to Protest’ (n. 76), 1379; Illan rua Wall, *Human Rights and Constituent Power* (Routledge 2013).

⁷⁸ James C. Franklin, ‘Human Rights on the March: Repression, Oppression, and Protest in Latin America’, International Studies Quarterly 64 (2020), 97–110 (106).

tools, such as bringing cases to domestic or international courts, to challenge rights violations.⁷⁹

In this article, I consider the role of protest within feminist human rights activism, specifically focusing on abortion. Enright, McNeilly, and De Londras have adopted the terminology of ‘feminist law work’ to explain ‘the manifold ways in which non-lawyer feminist activists engage with law, legal mobilisation, legal consciousness, legal institutions and legal argumentation’ in order to advocate for abortion law reform.⁸⁰ Following from this, I adopt the term ‘feminist human rights work’ to explain how abortion rights activists adopt, develop, and push for the realisation of international standards and human rights concepts, including through non-legal mechanisms such as protest. I argue that this work is important as protest can achieve what international human rights bodies and state-based mechanisms cannot; in occupying public space to make human rights claims, suffering is made visible and the narrative, silence, or status quo advanced by the state is disrupted. This is just as much an aspect of human rights work as the bringing of individual complaints to international bodies.

2. Counter-Hegemonic Human Rights Movements

There is a body of literature critiquing human rights for, among other issues, presenting overly romanticised narratives of the emancipatory effects of human rights; operating merely as a ‘palliative’ which only helps a limited number of people; their inability to account for everyday experiences of injustice; and for failing to support material or distributive equality.⁸¹ Post-colonial scholars have viewed the international human rights framework as an imperialist project aimed at the governance of non-Western peoples, which therefore cannot guarantee freedom and justice.⁸² They therefore conclude

⁷⁹ Grady and Robins (n. 64), 956; Alba Ruibal, ‘Legal Mobilization: Social Movements and the Judicial System Across Latin America’ in: Federico M. Rossi (ed.), *The Oxford Handbook of Latin American Social Movements* (Oxford University Press 2023), 746-760.

⁸⁰ Enright, McNeilly and De Londras (n. 5), 360.

⁸¹ Günter Frankenberg, ‘Human Rights and the Belief in a Just World’, *I.CON* 12 (2014), 35-60 (51); Costas Douzinas, *Human Rights and Empire* (Routledge-Cavendish 2009), 293; Ratna Kapur, ‘Precarious Desires and Ungrievable Lives: Human Rights and Postcolonial Critiques of Legal Justice’, *London Review of International Law* 3 (2015), 267-294 (285); David Kennedy, ‘The International Human Rights Movement: Part of the Problem?’, *EHRLR* 3 (2001), 245-267 (255); Samuel Moyn, *Not Enough: Human Rights in an Unequal World* (Harvard University Press 2018), 2 f.

⁸² Makau Mutua, ‘Savages, Victims, and Saviors: The Metaphor of Human Rights’, *Harv. Int’l. L.J.* 42 (2001), 201-246; Ratna Kapur, ‘In the Aftermath of Critique We Are Not in Epistemic Free Fall: Human Rights, the Subaltern Subject, and Non-Liberal Search for Freedom and Happiness’, *Law and Critique* 25 (2014), 25-45.

that the human rights framework is irredeemable, or that human rights should not be the main tools for working towards global equality.⁸³ However, others acknowledge that human rights are nonetheless important, as a globally available vocabulary and an important tool of struggle.⁸⁴ De Búrca highlights that the prominence of human rights movements across various countries indicates that human rights remain necessary, as a discourse which is very much relied upon by civil society.⁸⁵ Acciari similarly highlights the continuing human rights practices of women's and subaltern movements across the globe, concluding that this discourse therefore should not be disregarded.⁸⁶ As Acciari concludes, these groups 'cannot afford not to have rights'.⁸⁷

Within critical and postcolonial theory, human rights activism coming from the subaltern (formerly colonised populations who were socio-economically and political excluded from power) is viewed as an anti-foundational approach to human rights, which reproduces human rights outside of institutional structures.⁸⁸ Subaltern protest and social movements which advance human rights claims are therefore 'counter-hegemonic' – offering an alternative to traditional human rights norms and mechanisms.⁸⁹ Examples of these movements from the academic literature include Indigenous peoples' constructions of rights based on a 'shared identity' in Morocco, claims to labour rights 'from below' in Brazil, and the 2011 Egyptian uprising, which saw two weeks of protests across the country.⁹⁰ This does not necessitate an uncritical acceptance of human rights and the international regime; Acciari notes the 'ambivalent' use of rights by workers in Brazil.⁹¹ Abdelkarim calls for an

⁸³ Ben Golder, 'Beyond Redemption? Problematising the Critique of Human Rights in Contemporary International Legal Thought', *London Review of International Law* 2 (2014), 77-114 (104); Moyn (n. 81), 220.

⁸⁴ Frankenberg (n. 81), 36; Douglass Cassel, 'Does International Human Rights Law Make a Difference?', *Chi. J. Int'l L.* 2 (2001), 121-135 (122); Louisa Acciari, 'Becoming Ambivalent Subjects of Labour Rights: Subaltern Mobilisations, the Law and State', *Citizenship Studies* 25 (2021), 353-370.

⁸⁵ De Búrca (n. 6).

⁸⁶ Acciari (n. 84), 356.

⁸⁷ Acciari (n. 84), 356.

⁸⁸ Shaimaa Abdelkarim, 'Subaltern Subjectivity and Embodiment in Human Rights Practices', *London Review of International Law* 10 (2022), 243-264 (244); Konstantine Eristavi, 'Performing Defiance with Rights', *Law and Critique* 32 (2021), 153-169 (161).

⁸⁹ Abdelkarim (n. 88); Eristavi (n. 88); Kathryn McNeilly, 'After the Critique of Rights: For a Radical Democratic Theory and Practice of Human Rights', *Law and Critique* 27 (2016), 269-288.

⁹⁰ Silvia Gagliardi, 'Indigenous Peoples' Rights in Morocco: Subaltern Narratives by Amazigh Women', *International Journal of Human Rights* 23 (2019), 281-296; Acciari (n. 84); John Chalcraft, 'Egypt's 2011 Uprising, Subaltern Cultural Politics, and Revolutionary Weaknesses', *Social Movement Studies* 20 (2021), 669-685.

⁹¹ Acciari (n. 84).

understanding of ‘the multifaceted role of human rights in reproducing spaces of un/freedom’ – recognising these ‘strategic utilisations of human rights’ alongside the human rights regime’s legitimisation of ‘normal’ forms of violence.⁹² Madhok thus argues for an ‘anti-imperial epistemic justice’ which encapsulates the local politics of most of the world, rather than viewing human rights as ‘sites of knowledge production from Europe to most of the world’.⁹³

This framing understands human rights as a legal regime and as constructed by localised movements, aligning with Stammers’ understanding of rights as socially constructed.⁹⁴ Sharma refutes the idea that subaltern movements are alternative to the legal regime, arguing instead that a subaltern articulation of rights ‘calls upon, alters and exceeds legal notions’.⁹⁵ The international human rights framework and subaltern social movements ‘are mutually transformed through particular struggles in particular times and places’.⁹⁶ For example, Svensson highlights how the Dalit movement’s countering of discriminatory practices in local settings has expanded the ‘narrow limits of the UN’s work’.⁹⁷ Thus, Chase puts forward an anti-foundational conceptualisation of human rights, which understands that the rights frame does not come ‘from one source but rather flows out of these types of local intersections and human rights’ mutually dependent groundings in law, politics, institutions, and norms’.⁹⁸ This conception captures the importance of social movements, including protest movements, for the realisation of human rights; human rights are not solely the domain of states and international bodies, and cannot be effective without civil society. This is encompassed within my framing of feminist human rights work.

Protests are not always concerned with rights claims, but their ‘global constituent power’ creates new spaces and modalities for claiming, extending, or defending human rights.⁹⁹ This is distinct from the involvement of civil

⁹² Shaimaa Abdelkarim, ‘Space-Making “After Rights”: Carcerality, Rights-Claims, and the Practice of Freedom’, *International Journal of Human Rights* 28 (2024), 1394-1411 (1403).

⁹³ Sumi Madhok, ‘Anti-Imperial Epistemic Justice and Re-Making Rights and Justice “After Rights”’, *International Journal of Human Rights* 28 (2014), 1478-1500 (1479).

⁹⁴ Stammers (n. 7).

⁹⁵ Aradhana Sharma, ‘Specifying Citizenship: Subaltern Politics of Rights and Justice in Contemporary India’, *Citizenship Studies* 15 (2011), 965-980 (969).

⁹⁶ Sharma (n. 95), 978.

⁹⁷ Ted Svensson, ‘Humanising the Subaltern: Unbounded Caste and the Limits of a Rights Regime’, *Third World Quarterly* 35 (2014), 1691-1708 (1701).

⁹⁸ Anthony Tirado Chase, ‘Legitimizing Human Rights: Beyond Mythical Foundations and Into Everyday Resonances’, *Journal of Human Rights* 11 (2012), 505-525 (506).

⁹⁹ Anthony F. Lang, ‘Global Constituent Power: Protests and Human Rights’ in: Aidan Hehir and Robert W. Murray (eds), *Protecting Human Rights in the 21st Century* (Routledge 2017), 18-31 (23).

society representatives, such as NGOs, at the international system; there is no ‘boomerang’-like appeal upwards to the courts or international body, but rather a bottom-up demand placed on the state or other actors. The realisation of human rights, particularly for subaltern peoples, is not possible without the recognition and incorporation of these movements within international human rights discourse. As Chase argues, the human rights framework must be open ‘to these pushes from the bottom-up’ as it is ‘when the rights regime can absorb, represent and structure claims made by populations previously excluded from conversations that inform global politics that human rights can have an impact’.¹⁰⁰ In this article, I will demonstrate the importance of (counter-hegemonic) human rights work through protest in relation to the realisation of abortion rights standards.

IV. Abortion Protest as Feminist Human Rights Work

1. Vernacular Rights Frames in Human Rights Work

The language of human rights does not always resonate in localised contexts, even where the content does. Engle Merry thus developed the concept of ‘vernacularizing’ human rights to understand how universal ideas are extracted and translated into a language which resonates in these contexts.¹⁰¹ In relation to gender-based rights, Engle Merry argued that while these rights ideas ‘are repackaged in culturally resonant wrappings, the interior remains a radical challenge to patriarchy’.¹⁰² The fundamental meaning of the right in question is not changed, but local interpretations enable norms to be adopted from the ground-up rather than imposed by an international body.¹⁰³ Yamin highlights the importance of this process in relation to sexual and reproductive health indicators, as a way of responding to specific socio-cultural contestations and understandings of sexuality, pregnancy, and the relationship between the pregnant person and foetus.¹⁰⁴ This process therefore ‘converts universalistic human rights into local understandings of social justice’ and provides the means for local movements to raise human rights issues in a way that resonates.¹⁰⁵ These

¹⁰⁰ Chase (n. 98), 507.

¹⁰¹ Sally Engle Merry, *Human Rights and Gender Violence* (University of Chicago Press 2006).

¹⁰² Merry (n. 101), 221.

¹⁰³ Merry (n. 101), 225.

¹⁰⁴ Yamin (n. 53), 185.

¹⁰⁵ Sally Engle Merry and Peggy Levitt, ‘The Vernacularization of Women’s Human Rights’ in: Stephen Hopgood, Jack Snyder and Leslie Vinjamuri (eds), *Human Rights Futures* (Cambridge University Press 2017), 213-236 (213).

local movements are supported by the legitimacy of international human rights standards and treaty bodies, but are positioned to adopt or translate these standards based on what makes sense in that context.

Madhok has critiqued the phrase ‘vernacularization’ as a verb which reinforces the idea of rights as unidirectional, travelling from the West to the non-West where they are then appropriated.¹⁰⁶ Instead, Madhok uses the phrase ‘vernacular rights cultures’ in order to recognise the non-linear relationship between human rights and social movements.¹⁰⁷ As already highlighted, social movements construct their own understandings of human rights, which can in turn influence international standards. These movements are not merely translators of human rights, but are key actors in the development, expansion, and realisation of human rights. Luna presents the concept of the ‘revolutionary domestication’ of human rights, in recognising how reproductive justice organisations in the United States (US) have adopted a more radical framing of reproductive rights than international human rights standards.¹⁰⁸ I thus adopt an understanding of vernacular human rights framings as a circular process in which activists play a key role in the implementation and expansion of human rights protection at the national level, and in turn can influence both human rights activism in other states and the development of international standards. This aligns with Snow et al.’s understanding of framing alignment processes in social movements, whereby frames can be bridged with other concepts, expanded, amplified, or transformed.¹⁰⁹ The concept of human rights can be considered a ‘master frame’ in terms of its global usage,¹¹⁰ and counter-hegemonic movements develop their own vernacular rights cultures through these framing processes.

In the following two sections, I demonstrate how culturally specific rights frames were enacted in Argentina, where human rights language has resonance, and in Ireland, where human rights discourse was translated to referendum voters, as examples of feminist human rights work. This is not intended to present a romanticised view of social movements or the effectiveness of protest; campaigns in both countries were active for decades before reform was successful. Political opportunity is relevant to the success of these two movements. Scholars have suggested that there are three key factors

¹⁰⁶ Sumi Madhok, *Vernacular Rights Cultures* (Cambridge University Press 2021), 20.

¹⁰⁷ Madhok (n. 106), 20.

¹⁰⁸ Zakiya Luna, *Reproductive Rights as Human Rights* (New York University Press 2020), 17 f.

¹⁰⁹ David A. Snow, E. Burke Rochford Jr., Steven K. Worden and Robert D. Benford, ‘Frame Alignment Processes, Micromobilization, and Movement Participation’, *American Sociology Review* 51 (1986), 464–481 (467).

¹¹⁰ Snow, Burke Rochford Jr., Worden and Benford. (n. 109), 475.

lending themselves to the legalisation of abortion in the Latin American context: a left-wing government, a President who supports abortion decriminalisation, and the weak presence of the Catholic Church.¹¹¹ The Catholic Church is influential in both Ireland and Argentina, and reform efforts were ultimately successful because both countries gained heads of state that were more supportive of abortion than their predecessors.¹¹² However, it is unlikely that either would have taken action to implement abortion rights standards without the pressure from civil society, particularly as international standards had been developed by the bringing of individual complaints from both countries. It is therefore my argument that (counter-hegemonic) rights movements, including ‘new’ strategies such as protest, are important for the realisation of human rights and must therefore be recognised as such by international bodies – both in the context of treaty body reports, comments, and recommendations, and through community engagement efforts that reach grassroots movements as well as NGOs.¹¹³

2. The Resonance of Human Rights: Argentina’s Abortion Rights Protests

Prior to 2020, abortion was only permitted in Argentina if there was a danger to the life or health of the pregnant person, and where the pregnancy resulted from rape or the indecent assault of a person with a mental disability.¹¹⁴ The number of unsafe abortions taking place in Argentina each year (prior to legalisation) was calculated between 486,000 and 522,000, and it was estimated that unsafe abortion accounted for just over 20 % of the country’s maternal deaths.¹¹⁵ Those facing prosecutions – including minors – for terminating their own pregnancies had to go through a distressing and

¹¹¹ Mariela Daby and Mason W. Moseley, ‘Feminist Mobilization and the Abortion Debate in Latin America: Lessons from Argentina’, *Politics & Gender* 18 (2022), 359-393 (362).

¹¹² Uki Goñi, ‘Argentina’s New President Vows to Legalise Abortion’, *The Guardian*, 17 November 2019, <<https://www.theguardian.com/world/2019/nov/17/argentina-new-president-vows-legalise-abortion>>, last access 18 March 2026; Ed O’Loughlin, ‘Ireland to Hold Abortion Referendum Next Year’, *The New York Times*, 26 September 2017, <<https://www.nytimes.com/2017/09/26/world/europe/ireland-abortion-ban-referendum.html>>, last access 18 March 2026.

¹¹³ For more on how treaty bodies might engage with grassroots communities, see Kate Seewald, Susan Banki and Suyheang Kry, ‘“CEDAW is UP in the Sky”: Reimagining Participation in Human Rights Advocacy Through Mechanism-Based Feminist Participatory Action Research (FPAR)’, *International Journal of Qualitative Methods* (2015) [online first].

¹¹⁴ Art. 86 Argentine Penal Code 1984.

¹¹⁵ Cora Fernández Anderson, *Fighting for Abortion Rights in Latin America* (Routledge 2020), 60.

often traumatic process, even if they were not ultimately charged.¹¹⁶ In 2005, the National Campaign for the Right to Legal, Safe, and Free Abortion (referred to as ‘the Campaign’ henceforth) formed as a collective of movements and organisations working to legalise abortion in Argentina.¹¹⁷ The Campaign’s abortion legalisation bill was debated for the first time in 2018; the Chamber of Deputies (the lower house of Congress) approved the bill, but after a lengthy debate, it was defeated by the Senate (the upper house).¹¹⁸ However, the Campaign found support from the President Alberto Fernández, elected the following year, and in December 2020, the Voluntary Interruption of Pregnancy Bill was debated once again, and was successfully passed.¹¹⁹

Argentina’s abortion rights movement played a significant role in this success, and its mobilisation through protest was particularly influential, effecting a turning point in the success of the Campaign. In June 2015, 300,000 people gathered outside the Congress building in Buenos Aires and in central squares across Argentina’s cities for the first *Ni Una Menos* (Not One Less) demonstration against gender-based violence and femicide.¹²⁰ The Campaign was able to utilise the informal structures for feminist mobilisation that had already been put in place by *Ni Una Menos*, and subsequent abortion rights protests propelled changes in public opinion towards abortion and gave the movement the leverage and power to get the Voluntary

¹¹⁶ Amy Booth, ‘Victory for Argentina’s Women as Abortion Charges Are Dropped’, *The Guardian*, 10 January 2021, <<https://www.theguardian.com/world/2021/jan/10/victory-for-argentinas-women-as-abortion-charges-are-dropped>>, last access 18 March 2026; Human Rights Watch, *A Case for Legal Abortion*, 31 August 2020, 56-62, <<https://www.hrw.org/report/2020/08/31/case-legal-abortion/human-cost-barriers-sexual-and-reproductive-rights-argentina>>, last access 18 March 2026.

¹¹⁷ Barbara Sutton, ‘Intergenerational Encounters in the Struggle for Abortion Rights in Argentina’, *Women’s Studies International Forum* 82 (2020), 1-11 (1); Agustina Allori, ‘Assessing the “Green Tide”: An International Human Rights Advocacy Analysis of the “National Campaign for Legal, Safe and Free Abortion” of 2018 in Argentina’, *Disrupted* 4 (2018), 32-41 (35).

¹¹⁸ Uki Goñi, ‘Argentina Senate Rejects Bill to Legalise Abortion’, *The Guardian*, 9 August 2018, <<https://www.theguardian.com/world/2018/aug/09/argentina-senate-rejects-bill-legalise-abortion>>, last access 18 March 2026.

¹¹⁹ Tom Phillips, Amy Booth and Uki Goñi, ‘Argentina Legalises Abortion in Landmark Moment for Women’s Rights’, *The Guardian*, 30 December 2020, <<https://www.theguardian.com/world/2020/dec/30/argentina-legalises-abortion-in-landmark-moment-for-womens-rights>>, last access 18 March 2026.

¹²⁰ Lopreite, ‘Long Road’ (n. 55), 365; María de la Paz Toscani, Paula Rosa and Regina Vidosa, ‘“Nia Una Menos”: Practices, Aims and Achievements of a Grassroots Women’s Movement Against Femicide and Patriarchal Relations in Argentina’ in: Tihomir Viderman et al. (eds), *Unsettled Urban Space: Routines, Temporalities and Contestations* (Routledge 2023), 202-213 (208).

Interruption of Pregnancy Bill on the political agenda a few years later.¹²¹ Even while the Bill was being debated, these protests ‘intensified’ with a mass crowd of activists gathering outside Congress.¹²² The movement adopted human rights framings, rather than the ‘pro-choice’ or reproductive justice framings that are prevalent in abortion rights movements in Western countries, such as the US.¹²³ In Argentina, the country’s maternal mortality statistics could be highlighted as an example of grave human rights abuse and victimisation caused by the state.¹²⁴

Kubak highlights the importance of ‘cultural resonance’ for social movements, defined as ‘the alignment between movement frames and symbols in the cultural environment’.¹²⁵ While the framing of reproductive justice is considered by many feminist activists (at least in the US) to be preferable to that of reproductive rights, Morgan highlights that this was not the case in Argentina – the reproductive rights framing was more culturally resonant in this context.¹²⁶ The use of human rights discourse is particularly resonant in Argentina due to its dictatorship history. The military dictatorship of 1976–1983 was responsible for countless human rights violations such as forced disappearances, killings, torture, and imprisonment, as well as restrictions on reproductive rights.¹²⁷ During the dictatorship, the *Las Madres de Plaza de Mayo* (the Mothers of the Plaza de Mayo) led a non-violent protest movement against the forced disappearance of their children, as well as other human rights violations perpetuated by the dictatorship. They engaged in acts of protest such as ‘launching street demonstrations with flowers, candles, and photos of their missing relatives, staging hunger strikes, chaining themselves to government buildings, blocking traffic’ to publicly ‘reverse the optics of governance’.¹²⁸ The human rights protests of groups such as the *Madres* had embedded human rights in Argentina’s democratisation following the dictatorship, and the desire of the new democratic government to

¹²¹ Daby and Moseley (n. 111), 369, 373; Dagmara Szczepańska, ‘The Power of Mass Mobilisation: Argentina’s Struggle for the Legalisation of Abortion’, *Bulletin of Latin American Research* 39 (2020), 567–581 (578).

¹²² Szczepańska (n. 121), 577.

¹²³ Daby and Moseley (n. 111), 388; Omar G. Encarnación, ‘Latin America’s Abortion Rights Breakthrough’, *Journal of Democracy* 33 (2022), 89–103 (98).

¹²⁴ Encarnación (n. 123), 100.

¹²⁵ Timothy J. Kubak, ‘The Presentation of Political Self: Cultural Resonance and the Construction of Collective Action Frames’, *Sociological Quarterly* 39 (1998), 539–554 (542).

¹²⁶ Morgan (n. 14).

¹²⁷ Barbara Sutton and Elizabeth Borland, ‘Abortion and Human Rights for Women in Argentina’, *Frontiers* 40 (2019), 27–61 (32).

¹²⁸ Jennifer G. Schirmer, ‘“Those Who Die for Life Cannot Be Called Dead”: Women and Human Rights Protest in Latin America’, *Feminist Review* 32 (1989), 3–29 (4).

distance themselves from this history of state terrorism created a further in-road for human rights.¹²⁹

Subsequently, human rights became a winning strategy for activism on several issues, including contraception.¹³⁰ Thus, within the abortion rights protests, the prohibition on abortion was framed as a human rights violation and was connected to democracy by referring to access to abortion as a ‘debt of democracy’ that the government owed to pregnant people.¹³¹ The abortion rights protests visually linked themselves to the human rights protests from the dictatorship period by wearing a green triangular kerchief, mirroring the white triangular kerchief worn by the *Madres*, became a key visual symbol of the movement.¹³² According to Sutton and Vacarezza, the ‘green kerchief immediately situates us in a broader social movement field of human rights activism and in a genealogy of feminist and women’s struggle’.¹³³ This connection to Argentina’s past ‘highlights the significance of local conditions, historical legacies, and political cultures in the articulation of seemingly universal principles of human rights protection in relation to women’.¹³⁴ Argentina’s abortion rights protests resonated with other countries across Latin America with similar historical legacies, inspiring a regional movement known as ‘The Green Wave’ (*La Marea Verde*).¹³⁵

This frame would not necessarily resonate in a different cultural context; as Gerbaudo argues, protest diffusion ‘has been dependent on the ability of collective action frames and protest repertoires to resonate with local cultures and protest cultures in particular’.¹³⁶ However, it does serve to illustrate how protest movements adopt culturally-specific vernacular rights frames in order to achieve the realisation of human rights; as a result of these protests, situated within a broader campaign, abortion is now decriminalised and provided on request up to 14-weeks’ gestation, and after this period in cases of rape or where there is a risk to the life or health of the pregnant person.¹³⁷

¹²⁹ Sutton and Borland (n. 127), 32; Debora Lopreite, ‘Travelling Ideas and Somestic Policy Change: The Transnational Politics of Reproductive Rights/Health in Argentina’, *Global Social Policy* 12 (2012), 109-128 (122).

¹³⁰ Morgan (n. 14), 142-143; Lopreite, ‘Travelling Ideas’ (n. 129), 112 f.

¹³¹ Sutton and Borland (n. 127), 37.

¹³² Sutton (n. 117), 3.

¹³³ Barbara Sutton and Nayla Luz Vacarezza, ‘Abortion Rights in Images: Visual Interventions by Activist Organizations in Argentina’, *Signs* 45 (2020), 731-757 (740).

¹³⁴ Sutton and Borland (n. 127), 29.

¹³⁵ Ximena Casas, ‘How the ‘Green Wave’ Movement Did the Unthinkable in Latin America’, *New York Times*, 3 November 2021, <<https://www.nytimes.com/2021/11/01/opinion/abortion-latin-america.html>>, last access 18 March 2026.

¹³⁶ Paolo Gerbaudo, ‘Protest Diffusion and Cultural Resonance in the 2011 Protest Wave’ *The International Spectator. Italian Journal of International Affairs* 48 (2013), 86-101 (87).

¹³⁷ Art. 4 Ley de Interrupción Voluntaria del Embarazo (IVE) 2020.

The legislation explicitly states that its provisions have been framed in accordance with several international human rights treaties, including CEDAW.¹³⁸ As illustrated above, direct appeals to the bodies overseeing those treaties was ineffective at propelling law reform, and was only possible through bottom-up action which made visible civil society's demands and support for abortion. Argentina's abortion rights protests thus formed an influential part of the Campaign's feminist human rights work.

3. Vernacularising Human Rights Concepts: Repealing the Eighth Amendment

Prior to 2018, abortion was illegal in Ireland except where the pregnant person's life was at risk. The 8th Amendment to the Irish Constitution, passed in 1983, equated the life of the foetus with that of the pregnant person in order to preclude exceptions to the criminal offence beyond risk to life.¹³⁹ This near-total prohibition on abortion meant that approximately 3,000 Irish people travelled to England and Wales each year for legal abortions, while hundreds more travelled to the Netherlands.¹⁴⁰ Many pregnant people could not afford to access safe, legal abortion services elsewhere, and instead purchased abortion medication online, at the risk of criminalisation.¹⁴¹ Ireland's abortion rights movement had been active for decades, but the outrage generated in response to the death of Savita Halappanavar as a result of her being denied an abortion represented a turning point in Ireland's abortion rights movement. Once the story was reported in the media, thousands of people gathered for protests and vigils in her memory in Galway and Dublin.¹⁴² These widespread protests bolstered 'the preceding practices of pro-

¹³⁸ Art. 1 IVE 2020.

¹³⁹ Art. 40.3.3. Constitution of Ireland.

¹⁴⁰ Department of Health & Social Care, 'Abortion Statistics, England and Wales: 2017', 7 June 2018, para. 2.58, <<https://assets.publishing.service.gov.uk/media/5c0e7ecfe5274a0ada4d5c12/2017-abortion-statistics-for-england-and-wales-revised.pdf>>, last access 18 March 2026; Kitty Holland, 'Hundreds of Irish Women Travel to Netherlands for Abortions', *The Irish Times*, 16 September 2015, <<https://www.irishtimes.com/news/health/hundreds-of-irish-women-travel-to-netherlands-for-abortions-1.2352862>>, last access 18 March 2026.

¹⁴¹ Abigail R. A. Aiken, Rebecca Gomperts and James Trussel, 'Experiences and Characteristics of Women Seeking and Completing At-Home Medical Termination of Pregnancy Through Online Telemedicine in Ireland and Northern Ireland: a Population-Based Analysis', *BJOG: An International Journal of Obstetrics & Gynaecology* 124 (2016), 1208-1215.

¹⁴² BBC News, 'Savita Halappanavar: Rallies Held in Dublin and Galway', 17 November 2012, <<https://www.bbc.co.uk/news/world-europe-20378162>>, last access 18 March 2026; Megan Specia, 'How Savita Halappanavar's Death Spurred Ireland's Abortion Rights Campaign', *New York Times*, 27 May 2018, <<https://www.nytimes.com/2018/05/27/world/europe/savita-halappanavar-ireland-abortion.html>>, last access 18 March 2026.

choice feminist activists' in Ireland,¹⁴³ whose presence and influence were heightened in the years following with organised protests such as the annual 'March for Choice'.¹⁴⁴

Hunt found a frequent use of human rights language in the Irish context, both explicitly (in terms of referencing specific human rights bodies or standards) and implicitly (in terms of framing abortion using the language of universal rights).¹⁴⁵ As with Argentina, abortion rights protests in Ireland linked their claims to universal rights to the country's history. For example, the General Post Office in Dublin, which served as the headquarters of the leaders of the Easter Rising in 1916 when Irish republicans fought against British rule, was a site of protest in 2015 when direct-action feminist group Speaking of IMELDA chained themselves to the building and read out their own proclamation on rights to bodily autonomy.¹⁴⁶ The theme of the 2016 March for Choice, taking place in the centenary year of the Easter Rising, was 'Rise for Repeal' where activists sought to link the self-determination of the Irish state with reproductive self-determination.¹⁴⁷ These protests, alongside the cases brought before international human rights bodies and other strategies employed by the movement, were pivotal in pushing the government to hold a public referendum on repealing the 8th Amendment.

The purpose of these protest thus changed when their primary audience became the public, rather than state actors. While international human rights standards influenced the framing of the protest movements' arguments, the language of human rights was not always explicitly used in the context of appealing to voters. Firstly, explicit references to international human rights bodies may alienate non-state actors who are not the intended audience of those documents. Secondly, Hunt found that anti-abortion actors in Ireland also used human rights language, not only to advance the idea of foetal rights but also in the context of claims of 'protecting' women and girls from abortion.¹⁴⁸ Thus, the Repeal movement translated its human rights framing

¹⁴³ Enright, McNeilly and De Londras (n. 5), 376.

¹⁴⁴ Henry McDonald, 'Irish Trade Unions Call for Referendum on Abortion Rights', *The Guardian*, 23 November 2016, <<https://www.theguardian.com/world/2016/nov/23/irish-trade-unions-referendum-abortion-rights-repeal-eighth-amendment-ireland-pro-choice>>, last access 18 March 2026.

¹⁴⁵ Kate Hunt, 'Social Movements and Human Rights Language in Abortion Debates', *Journal of Human Rights* 20 (2021), 72-90 (79).

¹⁴⁶ Niamh NicGhabhann, 'City Walls, Bathroom Stalls and Tweeting the Taoiseach: the Aesthetics of Protest and the Campaign for Abortion Rights in the Republic of Ireland', *Continuum: Journal of Media & Culture Studies* 32 (2018), 553-568 (555).

¹⁴⁷ Ben Kasstan and Sarah Crook, 'Reproductive Rebellions in Britain and the Republic of Ireland: Contemporary and Past Abortion Activism and Alternative Sites of Care', *Feminist Encounters* 2 (2018), 1-16 (7).

¹⁴⁸ Hunt (n. 145), 81.

into broader terms to appeal to voters and to avoid a stand-off between these competing conceptions of human rights. This involved highlighting the injustices of the pre-2018 regime, including the use of placards carried during protests which showed individuals such as Savita Halapannavar who had lost their lives, or highlighted other stories and statistics around pregnant people being forced to travel abroad.¹⁴⁹ Suitcases were frequently taken along to protests, a visual symbol which disrupted the narrative of an ‘abortion-free Ireland’, establishing the counter-narrative that Ireland was simply exporting its abortions elsewhere.¹⁵⁰ The forcing of pregnant people to travel abroad for legal abortions had been criticised by the HRC in *Mellet* and *Whelan*. The movement also adopted the ‘free, safe, legal’ slogan on protest placards,¹⁵¹ reiterating human rights standards around the provision of abortion services once legalised.

Engle Merry highlights that groups whose commitments were underpinned by human rights standards, but chose alternative framings or discourses in communicating these commitments, are nonetheless participating in a process of vernacularisation.¹⁵² Feminist movements modify or reframe rights to facilitate their acceptance.¹⁵³ For example, Engle Merry studied a group of women in Gujarat who drew inspiration for their opposition to domestic violence from international human rights documents such as CEDAW, but did not cite or refer to these documents in their advocacy.¹⁵⁴ The Irish example thus illustrates a different approach to Argentina, where human rights language was not culturally resonant in the specific context of appealing to referendum voters. Thus, while the development of their vernacular rights frame took inspiration from human rights standards, the movement repackaged them in ways that could be easily distilled to voters through their protest repertoire. Thus, the Irish Repeal protests were – as with Argentina – an important aspect of the movement’s feminist human rights work.

¹⁴⁹ NicGhabhann (n. 146), 558.

¹⁵⁰ Sydney Calkin, ‘Healthcare Not Airfare! Art, Abortion, and Political Agency in Ireland’, *Gender, Place & Culture* 26 (2019), 338-361 (339).

¹⁵¹ Ronan McGreevy, ‘Abortion Campaigners Tell Government What They Really, Really Want’, *Irish Times*, 30 September 2017, <<https://www.irishtimes.com/news/ireland/irish-news/abortion-campaigners-tell-government-what-they-really-really-want-1.3239929>>, last access 18 March 2026.

¹⁵² Sally Engle Merry, ‘What is Legal Culture? An Anthropological Perspective’, *Journal of Comparative Law* 5 (2010), 40-58 (56).

¹⁵³ Peggy Levitt and Sally Engle Merry, ‘Making Women’s Human Rights in the Vernacular: Navigating the Culture/Rights Divide’ in: Dorothy L. Hodgson (ed.), *Gender and Culture at the Limit of Rights* (University of Pennsylvania Press 2011), 81-100 (91).

¹⁵⁴ Engle Merry, ‘Legal Culture’ (n. 152), 56.

V. Conclusion

International human rights institutions provide critical support and leverage to social movements, but rather than viewing this as a top-down process, more attention ought to be paid to the bottom-up realisation of human rights. Protest represents an important strategy of counter-hegemonic rights movements and what I have termed ‘feminist human rights work’. Through protest, activists can call out the state’s human rights violations, influence socio-cultural attitudes, and through developing vernacular rights cultures, make rights-based demands that resonate within the cultural context. In this article, I have demonstrated how the development of vernacular rights cultures informs feminist human rights work in the context of abortion, looking at Argentina and Ireland as examples of where rights-based protest repertoires influenced abortion law reform, moving each country closer to the realisation of abortion rights. It is important to note that the realisation of abortion rights is not achieved automatically with legalisation. In both countries, there are ongoing issues with the scope of legislation and accessibility in practice. This, however, is not an indicator of the failure of these protest movements, but instead highlights the importance of continuous civil society action for the implementation of human rights standards. The ‘March for Choice’ continues to take place annually in Ireland, and protests emerged again in Argentina after the election of right-wing President Javier Milei, who poses a threat to abortion provision, in 2023.¹⁵⁵ The status of human rights in any country is not static, but the mobilisation of civil society serves to shape, expand, and defend them; human rights are most effective in the hands of social movements.

¹⁵⁵ Abortion Rights Campaign, ‘13th Annual March for Choice’, 28 September 2024 <<https://www.abortionrightscampaign.ie/13th-annual-march-for-choice/>>, last access 18 March 2026; Anaïs Dubois, ‘In Argentina, Feminists and LGBT Groups Challenge Javier Milei’, *Le Monde*, 9 March 2024, <https://www.lemonde.fr/en/international/article/2024/03/09/in-argentina-javier-milei-challenged-by-feminists-and-lgbt-groups_6599688_4.html>, last access 18 March 2026.

