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Comparative Gender Study on the Effective Implementation of CEDAW in Local Legislation: Discrepancies between Normative Frameworks and Lived Realities in Poland and Argentina

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Abstract

This paper examines the contested implementation of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) in Argentina and Poland, two states that have ratified the Convention without reservations but display significant discrepancies between formal commitment and lived realities. Drawing on Antje Wiener's theory of norm contestation, the analysis explores how international gender equality norms are interpreted, resisted and reconfigured in domestic contexts marked by divergent political cultures and social movements.

Through a comparative case study approach, the paper focuses on two contrasting trajectories. In Argentina, the legalization of abortion in 2020 represents the result of sustained feminist mobilization and the strategic use of international human rights framework to advance reproductive rights. In contrast, Poland has experienced an increasing restriction of abortion access, particularly following the 2020 Constitutional Tribunal Ruling, reflecting a broader pattern of resistance to international gender norms.

By analyzing these developments, the paper demonstrated how the implementation of CEDAW does not follow a linear path of norm internalization but is shaped by domestic political struggles, institutional interpretations and competing normative projects. The findings highlight the role of feminist legal actors and transnational advocacy networks in promoting reproductive rights while revealing how international human rights norms remain subject to ongoing contestation at the domestic level.

Keywords: CEDAW Implementation, Norm Contestation, Reproductive Autonomy, Reproductive Rights

1. Introduction

The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) represents one of the most comprehensive frameworks aimed at advancing gender equality. By ratifying the CEDAW Convention, State parties commit to eliminating discrimination against women in both the public and the private sphere, aligning their national

laws with the international human right standards. The socialization of these norms into the local realities is, however, far from straightforward (Wiener, 2018).

In countries such as Argentina and Poland, which have both ratified the Convention without reservations, significant disparities exist in how its provisions are implemented. These differences stem not only from variations in national legal framework but also from the complex and contested nature of gender norms in each society (Cook & Cusack, 2010; Orchard & Wiener, 2024).

These two countries were selected due to the fact that both have ratified CEDAW more than thirty-five years ago, thus providing the Convention sufficient time to allow meaningful impact in these States. Moreover, they reveal divergent trajectories in the implementation of gender equality. Argentina has witnessed both progressive gender reforms and significant political pushback (Ramos, 2021), while Poland has seen institutional resistance driven by conservative political forces and a strong religious influence (Bucholc, 2022; Chmielewska-Szlajfer & Dunin-Wąsowicz, 2020). These contrasting cases provide a rich context for exploring how gender equality norms are negotiated, resisted and adapted within distinct political and cultural landscapes.

This paper explores how the international norms contended in the CEDAW Convention are interpreted and contested in local contexts, focusing on the active processes of negotiation, reinterpretation and resistance. Drawing on Antje Wiener's theory of normative contestation, the study examines how CEDAW is not simply imposed but actively reshaped by domestic actors (Wiener, 2018; Orchard & Wiener, 2024). In particular, it examines how gender equality norms in both Argentina and Poland are challenged, reinterpreted, or even sidelined in response to current political and social dynamics, highlighting the ways in which these norms are evolving and contested in the 21st century.

Efforts to promote gender equality through international frameworks often face challenges due to tensions between universal human rights and entrenched local values, ideologies, and institutional structures. However, as scholar Anne Hellum argues, culture should be understood as a dynamic process that can be reshaped to internalize and reflect universal norms (Hellum & Aasen, 2013). Advancing women's rights, therefore, requires not only legal reform but also a transformation in how societies understand and value women's contributions, affirm their experiences, and reimagine the foundations of community. This paper contends that the varying implementations of CEDAW in Argentina and Poland can be better understood through the lens of normative contestation. This perspective illuminates how norms are not simply adopted or rejected but actively negotiated, resisted, and transformed within specific local contexts. By analyzing legal texts, political discourse, and institutional behavior, this research aims to uncover the complex challenges of aligning international human rights commitments with the lived realities and political landscapes of individual states. Understanding these dynamics is crucial not only for evaluating CEDAW's effectiveness, but also for rethinking how international human rights norms operate within contested democratic spaces.

2. Materials and Methods

2.1 Theoretical Framework

This paper draws on Antje Wiener's interpretation-contestation framework to analyze the implementation of the CEDAW Convention in Argentina and Poland. The scholar proposes understanding contestation as a social activity, as it entails an objection concerning specific concerns significant to the community. This approach emphasizes that norms are not static rules but dynamic social processes that are being constantly reinterpreted and contested by various actors (Wiener, 2014). In *Contesting the World: Norm Research in Global Politics*,

Orchard and Wiener (2024) state that contestation can be either a negative or a positive process, which can help to improve the legitimacy of norms. This perspective is particularly useful for examining CEDAW's implementation, as it underscores that norms are not simply "followed" or "violated", but instead are lived, contested and adapted within specific cultural and political contexts.

The theory challenges the belief that international norms, once established, are universally accepted and evenly implemented. In lieu, Wiener argues that norms are inherently contested, implicating that their meanings and legitimacy are being constantly negotiated by different actors, based on cultural, historical, and political contexts. This includes states, international organizations, civil society, and individuals, each of whom bring different interpretations based on their distinct positionalities.

The practice of contestation matters, in particular, with regard to the agreement and implementation of fundamental norms, principles or procedures that are constitutive of the global normative order. Based on the premise that there are and will be gaps between general rules and specific situations and, rather than assuming a linear adoption of international commitments, this framework highlights the dynamic and often contentious ways in which global norms are negotiated within domestic settings. Contestation is constitutive for social change, for it always involves a critical reconfiguration of the rules of the game (Wiener, 2014).

Norms cannot be seen as just rules or expectations, but as socially embedded standards of appropriateness whose interpretations depend on shared understandings. Meaning that the same norm may and will have different interpretations depending on the local context and the actors involved.

This study aims to examine the gap between the formal adoption of the CEDAW Convention and its implementation in Poland and Argentina. Norm contestation theory, which supports that norms are not automatically internalized but instead are continually renegotiated through public discourse, political conflict and cultural translation (Wiener 2008, 2011), provides a robust lens to understand these discrepancies. Understanding that norm diffusion is not a linear process, the framework allows to explore how different actors shape, resist or localize international norms based on their historical and socio-political contexts (Zwingel, 2012).

By highlighting norm contestation, this research looks into the interpretative struggles that shape norm implementation. CEDAW's domestic effect is viewed as a site of ongoing negotiation, where meaning is produced and contested across courts, parliaments, streets and media. Ultimately, norm contestation enables a deeper understanding of the mechanisms behind the uneven implementation of the CEDAW Convention. By rejecting the notion of norms as fixed or universally internalized, the framework invites a more nuanced understanding of how international human right standards are reinterpreted, challenged and adapted across different contexts.

2.2. Methodology

This study employs a qualitative, comparative case study design grounded in Antje Wiener's norm contestation framework. The selection of the countries follows a contrasting case logic: both states have ratified CEDAW without reservations and have engaged formally with its reporting mechanisms, yet they have followed sharply divergent trajectories in the domestic implementation of reproductive rights norms. The pairing is analytically productive precisely because the formal similarity of their international commitments renders their domestic divergence theoretically significant, allowing the research to isolate the role of normative contestation rather than differences in treaty obligations.

The analysis is structured around Wiener's three-dimensional framework of norm contestation: *norm validation*, which concerns the formal recognition of a norm's existence and binding character; *norm application*, which refers to how norms are interpreted and operationalized in specific institutional and political contexts; and *norm activation through practice*, which captures how norms are invoked, challenged or reinforced by social actors in real-world settings (Wiener, 2014). These three dimensions were applied as deductive analytical categories throughout the research process, guiding both the selection of relevant materials and the interpretation of evidence across both cases.

For each case, the analysis traced how state institutions, courts, civil society actors, and international bodies have respectively validated, applied and activated CEDAW norms on reproductive rights. Particular attention was paid to moments of contestation, that is, to instances where actors explicitly challenged, reinterpreted or invoked international norms in ways that diverged from the CEDAW Committee's authoritative interpretations.

This approach allowed the research to identify distinct contestations patterns: justificatory contestation, in which the validity of a norm is acknowledged but resisted on moral or cultural grounds; and applicatory contestation, in which a norm's validity is accepted but its application is strategically narrowed or redirected.

The primary method of data collection was systematic documentary analysis. Sources were selected to capture the legal, institutional and discursive dimensions of CEDAW implementation in each country and were organized thematically by argument and actor across three categories:

Table 1. Documentary Sources Used in the Comparative Analysis

Source Type	Argentina	Poland
Legal/constitutional texts	Law 27.610 (2021)	Constitutional Tribunal ruling K 1/20 (2020); 1993 abortion compromise
CEDAW instruments	Concluding Observations on Argentina (CEDAW/C/ARG/CO/7); GR No. 24; GR No. 35 (CEDAW/C/GC/35)	Concluding Observations on Poland (2007, 2014); CEDAW Inquiry report (2022-2024); GR No. 24; GR No. 35 (CEDAW/C/GC/35)
Jurisprudence	Supreme Court ruling F.A.L. (2012)	Tysiac v. Poland, App. No. 5410/03 (ECtHR, 2007); P. and S. v. Poland, App. No. 57375/08 (ECtHR, 2012)
Institutional/NGO reports	CELS (2022); ELA reports; Bergallo (2014); Bergallo & Ramón Michel (2016)	Human Rights Watch (2019); Center for Reproductive Rights (2024); FEDERA/Karat submissions
Public/political discourse	Parliamentary debates; feminist campaigns materials; media coverage of Marea Verde	CBOS public opinion surveys (2020, 2023); European Parliament resolution (2021); political speeches

Sources of evidence by country and analytical category

Each source was examined for evidence of how key actors positioned themselves in relation to CEDAW obligations, whether affirming, resisting or reinterpreting them, and these positions were mapped onto the comparative analytical framework.

The research was additionally informed by a series of informal consultations with individuals involved in gender advocacy and legal research. These conversations were not conducted as formal qualitative interviews and are not treated as primary data sources. Rather, they served as contextual instruments, helping to sharpen the interpretation of documentary materials and to identify tensions that may not be fully visible in official texts alone.

Several limitations must be acknowledged. First, the study relies exclusively on document and discourse analysis. Second, the two-month timeframe of the original research necessarily

shaped the scope of data collection. The analysis therefore concentrated on a selection of key texts deemed most representative of the contestation dynamics under study. Third, the research captures conditions up to mid-2025 and does not account for subsequent legal or political developments in either country.

3. Findings

3.1. Reproductive and Sexual Rights under CEDAW: From Normative Gaps to Interpretative Expansion

The CEDAW Convention contains no explicit mention of abortion or reproductive health rights. Article 12, however, addresses:

> *"States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning."*

This absence reflects the political sensitivities and diplomatic constraints at the time of the redaction, as achieving consensus among United Nations member States, many of whom held deeply conflicting views on reproductive autonomy, was not an easy task. As scholars Rebecca J. Cook and Simone Cusack have noted, these compromises were strategic, permitting the CEDAW Convention to be widely adopted, even if it meant avoiding direct references like this one (2010). In order to mend this, the CEDAW Committee has progressively expanded the Convention's normative scope through their General Recommendations.

General Recommendation No. 24 provides guidance on the interpretation of Article 12. Providing advice to States parties regarding their obligations to report on the status of women's health and in particular, the specific kind of information they should include in their reports to the Committee. In addition, it highlights particular issues associated with the status of women's health and how these issues point to violations of states parties' obligations under Article 12. GR No. 24 also details how a state party can meet its obligations to respect, protect, and fulfil women's rights to health under CEDAW (Locklear & Abeysekera, 2012).

The committee explained that the provision of reproductive health services is essential to women's equality, and that *"it is discriminatory for a State Party to refuse to provide legally for the performance of certain reproductive health services for women."*

The 1994 International Conference on Population and Development (ICPD) Programme of Action (PoA) marked a crucial moment in the international articulation of reproductive rights as central to gender equality. By affirming women's autonomy over reproductive decisions and access to sexual and reproductive health services, the ICPD PoA helped shape a broader normative consensus that has since informed the CEDAW Committee's recommendations. General Recommendation No. 24, for instance, draws directly on ICPD principles to assert that access to reproductive health care is a fundamental component of the right to health and that punitive measures against women seeking abortions are inherently discriminatory.

The CEDAW Committee has encouraged states to amend laws that criminalize abortion to eliminate provisions punishing women who have abortions. It has noted the responsibility of States parties to take actions "*to ensure that women are not forced to seek unsafe medical procedures such as illegal abortion"* (Locklear & Abeysekera, 2012).

This evolving normative framework illustrates how international human rights regimes are not static, but rather shaped by ongoing contestation and reinterpretation.

This normative evolution reached a significant threshold in 2017, when the CEDAW Committee adopted General Recommendation No. 35 on gender-based violence against women (CEDAW/C/GC/35), updating GR No. 19. The document effected a conceptual shift of direct relevance to the cases examined here: it expressely reframed violations of women's sexual and reproductive health rights, including the criminalization of abortion and the denial or delay of safe abortion and post-abortion care, as forms of gender-based violence that, depending on the circumstances, may amount to torture or cruel, inhuman or degrading treatment (CEDAW Committee, 2017, para. 18). Crucially, GR No. 35 also called on states to repeal all legal provisions that criminalize abortion (para. 29(c)(i)). This framing matters analytically, as it means that Poland's 2020 Constitutional Tribunal ruling and Argentina's pre-2020 legal framework are not merely instances of incomplete norm implementation, but potential sites of state-sponsored gender-based violence.

In countries like Argentina and Poland, where abortion access remains highly politicized, the intersection between CEDAW, ICPD, and national law becomes a key site of normative negotiation, revealing the tensions between global standards and domestic resistance.

The regulation of abortion is a point where religious, moral, political and legal considerations converge and cross to create a global normative landscape of unsurpassed complexity (Bucholc, 2022). Recent decades have seen an increase in regulatory interventions in pregnancy and abortion worldwide. While some nations have liberalized their abortions law, others have introduced stricter prohibitions, which we will see are the cases for Argentina and Poland, respectively.

3.2. Argentina: Norm Activation from Below and the Path to Legislative Reform

Argentina's path to the legalization of abortion was long but ultimately successful. Until 2020, abortion was criminalized in most cases, with the exception of it being permitted in cases of rape or when the pregnancy posed a risk to the life or health of the pregnant person.

The CEDAW Committee had repeatedly recommended that Argentina expanded access to the right of abortion, yet for decades this did not happen, demonstrating a lack of political will grounded in justificatory contestation.

This pattern of non-compliance is well-documented in the Committee's own record. In its 2016 Concluding Observations on Argentina (CEDAW/C/ARG/CO/7), adopted at the Committee's 65th session, the body expressed concern at the persistence of clandestine abortion as a leading cause of maternal mortality and urged Argentina to accelerate the adoption of legislation expanding legal access to abortion, not only in the cases of rape and risk to the life or health of the pregnant person, but also in cases of incest and sever foetal impairment (CEDAW Committee, 2016, paras. 33(b) and 33(d)). These recommendations remained unimplemented for four years. The gap between the Committee's directives and Argentina's domestic legal framework during this period constitutes a textbook instance of justificatory contestation, the state formally acknowledged its CEDAW obligations while politically refusing to act on them.

This opposition to reproductive autonomy as a legally recognized right was rooted in Catholic doctrine, national identity and traditional gender roles.

Long before 2020, the seeds of what would become the Marea Verde (Green Wave) were already visible. As early as 2003, the green scarves had emerged as a symbol of the campaign for legalization, becoming the formal emblem of the National Campaign for the Right to Abortion by 2005.

One turn point in this path was the tragic case of Ana María Acevedo, in 2007. Ana María was a 20-year-old mother of three, diagnosed with cancer while being pregnant. She was denied both oncological treatment and an abortion, by the hospital staff. Despite the risk of not undergoing treatment, the doctors refused in order to give priority to the pregnancy, ignoring the recommendations of some members of the bioethics committee and violating the laws that permitted abortion to protect women's lives. This denial based on ideological convictions ended with Ana María's death, representing an instance of justificatory contestation, where the hospital staff conscientiously resisted the application of the international norms.

This case became a symbol of the urgent need to align national medical and legal practices with international human rights obligations, and it contributed to building the discursive conditions for subsequent judicial intervention.

It was the year 2012 when the *F.A.L* ruling ended the debate on the cases of non-punishable abortion under Article 86 of the National Penal Code. F.A.L. is a young woman from Comodoro Rivadavia who was raped by her stepfather when she was 15 years old. Her mother appealed to the courts to allow her daughter to have an abortion in a public hospital. The request was denied twice, but the Chubut Superior Court of Justice finally intervened and determined that the abortion fell within the scope of non-punishable abortion under Article 86 of the National Penal Code, allowing the abortion to be performed. The Supreme Court of Justice of the Nation determined that any abortion of a pregnancy resulting from rape, regardless of the woman's mental health, is not punishable, both for the woman and for the person who terminated the pregnancy. Furthermore, the Court called on the judiciaries of all provinces not to prosecute abortion cases not prohibited by law. This was definitely a shift in the way the matter of abortion was seen, and one could argue that it reflected an applicatory contestation, where the validity of the norm was accepted but limited to its application (ELA, n.d.).

The F.A.L. ruling did not emerge in a vacuum. As Bergallo (2014) has documented, it was the product of sustained feminist legal mobilization over more than a decade, in which lawyers, civil society organizations, and women's rights advocated strategically deployed litigation to challenge the informal rules that systematically blocked access to even those abortions that were formally legal. Bergallo frames this process as a struggle against a gap between law on the books and law in action, a framing that maps directly onto Wiener's understanding of applicatory contestation as the key site where norm meaning is produced and contested. Bergallo and Ramon Michel (2016) further situate F.A.L. within a broader regional pattern of courts becoming central arenas for the constitutionalization of abortion disputes across Latin America, a dynamic in which Argentina played a leading role, and which helps explain both the discursive resources available to the Marea Verde and the political vulnerability of a purely legislative strategy.

The F.A.L. ruling established a significant precedent. In 2018, the bill on voluntary termination of pregnancy promoted by the National Campaign received preliminary approval in the Chamber of Deputies. Although it was later rejected in the Senate, it laid the groundwork for the legitimacy of the demand. This groundwork was not set aside, as Silvina Ramos stated "*Firstly, abortion became a cross-cutting issue across political party identities. Secondly, abortion became a politically rewarding cause. We went from a regime of silence and the convenience of political diligence in discussing abortion to a regime and a scenario in which not discussing abortion was and was politically costly"*. This evolution demonstrates the importance of the emotions, as Halima Akhrif and Simon Koschut argued *"emotional resonance supports the maintenance and enforcement of international norms: the capacity or norms to evoke shared emotional images, memories, and collective feelings among different*

international actors facilitates compliance." (Orchard & Wiener, 2024). Which is what happened in Argentina, where the abortion debate became emotionally charged, helping shift what was once viewed as a sensitive issue into a form of gender mainstreaming.

The law 27.610 on Voluntary Interruption of Pregnancy came into effect: allowing voluntary abortion until week 14 and without time restrictions in cases of rape or risk to the health of the woman, girl, or pregnant person.

Now, the implementation of the law is not linear and there are still obstacles. Ana Laura Rodríguez Gustá points out that *"the problems and obstacles in the development of gender-sensitive policies are related not only to the authorities' resistance to recognizing the rights of women as essential and urgent aspects of state intervention, but also to the problems within state structures and capacities to respond to the population's specific problems. These problems are reflected in the lack of adequate resources, bureaucratic inertia, resistance, and the interpretation of unequal gender relations as a process alien to institutional and professional practices."* (Rodríguez Gustá, 2008). Hence the main problems that the Centro de Estudios Legales y Sociales (CELS) has highlighted in regards of the implementation of the law: lack of clear information throughout the country about people's right to abortion as well as understanding that many requests for care in different provinces across the country are resolved by transferring patients to other provinces or from rural to urban areas due to the lack of healthcare teams that guarantee comprehensive care. This lack of uniformity in health services continues to undermine territorial inequalities (CELS, 2022). Making the point that there is still an ongoing contestation.

Contestation takes the form of *conscientious objection*, it being the refusal to perform a role or assume a responsibility due to personal, religious, or moral beliefs. In the context of abortion care, the invocation of conscientious objection has become a widespread global phenomenon and constitutes a barrier to these services for many women and girls. It occurs when a health care provider refuses to provide abortion services or information for reasons of conscience or religious beliefs (FIGO, 2021). While the law permits individual conscientious objection under strict conditions, in practice it has been used extensively to delay or deny access, especially in conservative provinces. Making it so that healthcare providers end up reinterpreting the norm,

through a religious or moral lens, shifting the meaning of the law. Generating gaps between formal legal commitments and lived realities.

All in all, Argentina's determination to legalize abortion in 2020 constitutes a significant achievement for reproductive rights, emphasizing the significance of bottom-up contestation in reshaping domestic normative frameworks.

The success of grassroots movements, exemplified by the feminist organizations that sustained the Marea Verde campaign over more than a decade, demonstrates the influential role of civil society in pushing for domestic legal reform aligned with international human right standards. Tracing the casual chain in the Argentine case reveals a process of norm activation through incremental contestation. The F.A.L. ruling (2012) did not directly produce legislative reform, but it shifted the discursive terrain: by establishing that rape-based abortion was constitutionally protected, the Supreme Court moved the debate from a medical to a political register, making legislative inaction increasingly costly. This created the conditions under which the 2018 legislative campaign, despite its Senate defeat, could normalize the demand and transform abortion from a taboo into a cross-party political issue, as Ramos (2021) documents. By 2020, the political cost of continued inaction had exceeded the cost of reform. Viewed through Wiener's framework, Argentina illustrates a pathway in

which justificatory contestation (decades of Catholic-nationalist resistance) was gradually overcome by norm activation from below. The persistence of conscientious objection post-2020 demonstrates, however, that norm activation does not end with legislative change: the site of contestation shifts from parliament to the clinic.

3.3. Poland: State-Driven Contestation and the Dismantling of Normative Equilibrium

On the other hand, abortion law in Poland has been one of the strictest in Europe; only permitting it in two cases: when there is a threat to the life or health of the pregnant woman and when the pregnancy is a result of rape or incest. These exceptions were part of the "1993 abortion compromise", which was abolished by a 2020 Constitutional Tribunal ruling that declared abortion for foetal impairment to be unconstitutional, which up until this point was allowed. It is said that this ruling essentially made a legal prohibition on abortion, as it heavily reduced the condition under which this practice is legal (Bucholc, 2022). This shift contradicts the CEDAW Committee's interpretation of states' obligations under the Convention. In its 2014 concluding observation on Perú, the Committee explicitly recommended the state to ensure access to abortion in cases of severe foetal impairment (Committee on the Elimination of Discrimination against Women, 2014). Highlighting how Poland's restrictive turn marks a direct divergence from evolving international human rights standards on reproductive autonomy.

Before the 2020 Constitutional Tribunal ruling and, according to the Polish Ministry of Health, approximately 95% of legal abortions in Poland were performed due to severe foetal impairment. Poland's almost total ban on abortion has caused, and continues to cause, immense harm and suffering. Even in the exceptional circumstances where abortion is legal, it is almost impossible to obtain in practice (Center for Reproductive Rights, 2024). Most women in Poland who decide to end a pregnancy resulting from rape or due to health risk, are unable to access legal abortion care in within the country and must travel abroad to do so. This ruling aggravated the reality of women, in particular those of low-income and from rural communities.

Despite Poland's already restrictive abortion law, barriers to access persist, even within the limited legal exceptions that remain. A 2019 report by Human Rights Watch revealed that institutionalized obstruction and fear of reprisal have created a climate in which healthcare professionals routinely invoke the "conscience clause" to refuse abortions, without referring patients elsewhere, hence denying care to those legally entitled to it (Human Rights Watch, 2019). These practical barriers, aggravated by the state's punitive approach, reflect not only regulatory dysfunction but also an active strategy to reinforce a specific normative order. In this sense, Poland's stance on reproductive rights is a deeply embedded cultural project aiming to recalibrate the meanings of rights, dignity and national identity in defiance of international standards. The CEDAW Committee has reiterated its concerns about this matter in its concluding observations on the combined seventh and eighth periodic reports of Poland in 2014, recommending that the country should: *"establish clear standards for a uniform and non-restrictive interpretation of the conditions for legal abortion so that women may access it without limitations (...)"* (para. 37 (b)).

These concerns had already been raised in the Committee's 2007 concluding observations, which noted a decline in accessible reproductive health services due to healthcare restructuring and a lack of official data on illegal abortions and their consequences. At this time, the Committee urged Poland to improve access to sexual and reproductive health services, ensure that the conscientious objections do not limit legal abortion, and prioritize comprehensive contraceptive access and sex education (CEDAW/C/POL/6, paras. 24-25). The repetition of these recommendations over time underscores the Polish state's persistent resistance to

aligning with its obligations under Article 12 of the Convention and General Recommendation No. 24.

As scholar Martha Bucholc (2022) explains: *"instead of expressly eliminating the norms of international law by declaring them unconstitutional, the abortion ruling produces the same effect by the selection of jurisprudential arguments".* Giving a type of contestation where it avoids direct confrontation, neutralizing the norms through interpretative strategies. Jurisprudence is always culturally embedded.

The national framing of abortion went hand in hand with the religious one, which provided a great potential for the universalisation of nation-centred reproductive governance concerns. The Church's opposition to abortion is framed as a consequence of its commitment to the *"defence of the world's poor, those who are threatened and despised and whose human rights are violated"* (John Paul II 1995, sec. 5). Framing abortion as a violation of human dignity and positioning it as a direct threat to the broader culture of human rights. This construction of the relation between human rights and abortion laws has remained as underpinning the national-conservative discourse on abortion in Poland (Bucholc, 2022).

The image of the Tribunal has never been as poor as it is now, according to a December 2020 study by the Centre for Public Opinion Research (CBOS), 50% of respondents had a negative opinion about the Constitutional Tribunal's work, more than double those who held a favorable view (24%) (CBOS 2020a, b, p. 5). This dissatisfaction appears to have deepened in the years following the Tribunal's controversial abortion ruling. A March 2023 CBOS study found that 57% of Poles supported broadening the scope of legal abortion, indicating a public desire to return to the pre-2020 legal status quo. Similarly, a December 2023 Ipsos survey revealed that 57% of respondents favored legal abortion without the need to provide reasons, with 38% supporting access up to 12 weeks of pregnancy, and 19% up to 24 weeks (Ipsos, 2023). The persistence of public support for liberalized abortion access, despite political and legal resistance, reflects ongoing interpretive contestation of reproductive rights norms within Polish society.

The CEDAW Committee has recognized the extensive harm caused by Poland's criminalization and legal restrictions on abortion. Understanding that the current situation violates numerous human rights protected by the Convention. "*The situation in Poland constitutes gender-based violence against women and may rise to the level of torture or cruel, inhuman, or degrading treatment,"* said CEDAW Vice-Chair Genoveva Tisheva (OHCHR, 2024). Under the scope of Article 8 of the Optional Protocol, the Committee may initiate a confidential inquiry if it receives reliable information indicating grave or systematic violations of the Convention by a State Party. The inquiry was initiated by the Center for Reproductive Rights and Polish civil society organizations the Foundation for Women and Family Planning (FEDERA) and the Karat Coalition. The inquiry was conducted between 2021 and 2022, and it included an official visit to Poland.

The report states that by criminalizing and restricting abortion access, Poland is exercising strict State control over women's reproductive health and autonomy, resulting in grave and systematic human rights violations. It recognizes the serious harm inflicted by a legal framework that forces women to continue pregnancies against their will, seek clandestine and potentially unsafe abortions, or travel abroad to obtain care, jeopardizing their health and wellbeing. The Committee calls on Poland to fully decriminalize and legalize abortion, to recognize abortion as a fundamental human right and guarantee access to quality sexual and reproductive health services, information and education.

Motherhood will be desired or it will not be: the Committee's findings confirm that Poland's abortion law and practice give rise to intrusive and arbitrary interferences in women's decisions about their pregnancies, violating article 16 (1) (e) of the Convention. The Committee concludes that allowing women access to abortion care in Poland is the only way to preserve their physical and psychological integrity and reproductive autonomy.

CEDAW made 22 recommendations in its report, including the adoption of a human rights-based approach to sexual and reproductive health and rights, notably through legal reforms towards total decriminalisation and legalisation of abortion, as well as the recognition of the right to abortion as a fundamental right (Center for Reproductive Rights, 2024). Additionally, Poland's abortion laws have drawn criticism from European Union institutions and international human rights bodies, such as the European Parliament and the Council of Europe Commissioner for Human Rights. The European Parliament released a resolution on the first anniversary of the de facto abortion law (2021/2925(RSP)), where it condemns the country's near-total abortion law, stating it *"puts women's health and life at risk"* and *"fails to protect the inherent and inalienable dignity of women"*, urging Poland to provide safe, legal, free and high-quality abortion services, and to make them accessible to all women and girls. Commissioner Helena Dalli, during the plenary session (23-26 November) in the European Parliament in Brussels, stated that national laws that disproportionately harm women's health and autonomy may breach EU legal norms, especially when they result in systemic denial of access to essential reproductive healthcare. Moreover, the Commissioner expressed concern about the chilling effect these laws have on healthcare providers and the legal uncertainty imposed on women, especially those already marginalized (European Parliament, 2020). *"In the last few months the Polish government has done everything it could to strip women of their right to self-determination and deny them of their power to take decisions over their own bodies"* Evelyn Regner, chair of Parliament's Women's Rights and Gender Equality Committee (Hutchinson, 2020).

The international condemnation of Poland's reproductive rights framework is not confined to the UN system. The European Court of Human Rights (ECtHR) has issued a series of landmark rulings establishing that Poland's failure to ensure practical access to legal abortion violates fundamental rights under the European Convention on Human Rights. In *Tysiac v. Poland* (App. No. 5410/03, 2007), the Court held for the first time that states have a positive obligation to establish effective mechanisms guaranteeing access to legal abortion, ruling that Poland had violated Article 8 (right to respect for private and family life) when a woman was denied a therapeutic abortion and subsequently lost most of her vision. Five years later, *P. and S. v. Poland* (App. No. 57375/08,2012) extended these protections to adolescent rape victims, finding violations of Articles 3, 5 and 8 of the Convention after a fourteen-year-old rape survivor was subjected to instrumental harassment, false information, and enforced separation from her mother in an effort to prevent her from accessing a legal abortion.

The structural parallel with Argentina's F.A.L. ruling is analytically striking. Both cases involved a rape victim, both exposed the gap between formal legality and institutional obstructions, and both generated normative momentum by forcing state accountability through adjudication rather than legislation. The difference is in the outcome: where F.A.L. fed into a process of legislative reform, Tysiac and P. and S. produced judgments that Poland has persistently failed to implement, a pattern the Committee of Ministers continues to supervise under enhanced monitoring procedure to this day.

Poland's official position in response to these criticisms held that. The country expressed that States have sovereign competence and are entitled to protect the right of the unborn child to life from the time of conception; that the right to respect for private life of the woman cannot

be interpreted as meaning that pregnancy and its termination pertain uniquely to the woman's private life; and that the woman's right to respect for her private life must be weighed against other competing rights and freedoms invoked, including those of the unborn child.

Poland's invocation of sovereign authority, national identity, and religious tradition as justification can be seen as a norm collision, a clash between competing normative orders. On the one hand, the domestic normative framework is shaped by the Catholic doctrine, constitutional interpretations and a nationalist-conservative political agenda. On the other hand, the international legal framework.

Following Wiener, norm contestation employs three dimensions, which are interrelated: norm validation, norm application and norm activation through practice. Taking this into Poland's case, the State validates the existence of the CEDAW Convention (norm validation) but its implementation is through a narrow, sovereignty-based and religious lens, framing the right to abortion as a threat to human dignity and national identity (norm application). In contrast, activists, NGOs and mass mobilizations contest this, advocating their lived experiences and rights (norm activation).

The biggest and clearest form of resistance were the 2020 protests, as a direct response to the Constitutional Tribunal ruling. According to the article titled *"Poland's abortion ban protests are a harbinger of a wider social movement"* (2020), almost half a million people participated, all across the country. The *#StrajkKobiet* hashtag and the red lightning bolt sign became symbols of the protests.

While Poland tries to assert a singular and authoritative definition and view on the topic, civil society actors invoke the international legal framework to assert women's autonomy, dignity and access to human rights. Making it a point that contestation does not imply norm weakness or failure, but instead a normal way of how norms evolve. Contestation lets us highlight new-found understandings of the role of politics at both global and local levels as well as new plural understandings of agency in norm generation and resistance (Wiener 2018; True and Wiener 2019; Pratt 2020). It is stated that through these continuous acts of reinterpretation that norms gain resilience and adaptability. (Orchard & Wiener, 2024).

In contrast, Poland's constraining view on abortion has become a major breaking point for the disputes between national sovereignty and international human rights. Despite its commitment to CEDAW, Poland has continued to interpret reproductive rights in a way that they align with religious doctrine and national legal traditions, oftentimes at odds with global norms. However, bottom-up contestation within Poland took the job of bringing this issue to the forefront, challenging the government's interpretation of reproductive autonomy. Through activism and mass protests, citizens and women's rights organizations have sought to reframe this narrative. The Polish case reveals a structurally inverted pathway. Where Argentina saw norm activation gradually overcome institutional resistance, Poland exhibits a process of institutional contestation actively dismantling a pre-existing normative equilibrium. The 1993 compromise, already restrictive by international standards, functioned as a stable if inadequate framework until the 2020 Constitutional Tribunal ruling weaponized applicatory contestation: life as a constitutional value that trumped reproductive autonomy, neutralizing international norms through domestic jurisprudence rather than direct defiance (Bucholc, 2022). The result is a form of norm displacement, the state continues to formally validate CEDAW while systematically emptying it of content at the application level. Civil society's response constitutes norm activation from below, as in Argentina, but operating against a state apparatus that is actively consolidating rather than gradually conceding. The ECtHR judgements in *Tysiac* and *P. and S.*, persistently unimplemented, confirm that in the Polish case, international adjudication has thus far failed to close the gap between formal obligation and lived reality.

4. Conclusions

This paper set out to examine how CEDAW norms on reproductive rights are contested, reinterpreted and resisted in Argentina and Poland, two states with formally identical treaty commitments but sharply divergent domestic trajectories. The comparative analysis yields three findings of theoretical and practical relevance.

First, contestation operates through distinct pathways depending on the direction of political pressure. In Argentina, norm activation from below gradually overcame justificatory contestation by state and religious actors, culminating in legislative reform in 2020. In Poland. the state itself became the primary agent of contestation, deploying applicatory strategies to dismantle a pre-existing normative equilibrium from above.

Second, the cases reveal that formal legal change is not a sufficient condition for norm internalization. Argentina legalized abortion but continues to experience applicatory contestation through conscientious objection and territorial inequalities in access. Poland's formal CEDAW obligations remain intact on paper while being systematically emptied of content through jurisprudential reframing. In both cases, the gap between normative framework and lived realities persists, but through different mechanisms and with different prospects for closure.

Third, transnational accountability mechanisms have played a legitimizing rather than a determinative role. They provided discursive resources and normative authority that domestic actors mobilized strategically, but their impact depended on the presence of political conditions receptive to that mobilization. Where those conditions were absent, as in Poland, international adjudication produced condemnation without compliance.

These findings carry implications for states, courts, health systems, and advocacy networks. For states, they suggest that ratification without implementation mechanisms produces contestation rather than internalization. For courts, they highlight the centrality of procedural access, as F.A.L., Tysiac and P. and S. all demonstrate, adjudication can shift normative terrain even when legislative reform is blocked. For health systems, conscientious objection emerges as the key post-legislative battleground requiring structural regulation. For advocacy networks, the Argentine case suggests that sustained, emotionally resonant, cross-party mobilization is the most effective driver of norm activation under conditions of democratic competition.

At its core, this paper has explored a fundamental tension: the gap between the promise of gender equality enshrined in international law and the everyday realities of women navigating political and social systems that often fail them. Through the lens of norm contestation, it becomes clear that international commitments alone cannot secure justice. What matters is how these norms are made meaningful, or meaningless, by governments, courts and movements on the ground.

Amid resistance, there is also resilience. Transnational feminist actors, legal advocates, and everyday citizens continue to give life to the ideals of the CEDAW Convention, often at great personal cost. Their work reminds us that gender equality is not a finished project but a continuous process of struggle, interpretation and hope.

This paper is a contribution to that ongoing conversation. Documenting norm contestation is not only a scholarly task, but it is a way of making visible the human stakes of legal abstraction. The cases of Argentina and Poland demonstrate that behind every gap between normative commitment and lived reality stands a concrete population whose rights remain contingent on political will.

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