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How Feminism is changing Justice in Chile Gender mainstreaming, Jurisprudence and Feminist Cause Space

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Abstract

This article examines how feminist ideas, actors and practices have reshaped the Chilean judiciary over the last two decades. Drawing on documentary analysis and 36 emblematic rulings of the Constitutional Court (2004-2024), complemented by decisions of the Inter-American Court of Human Rights, this analysis examines the recent process of gender mainstreaming in the justice system. The cases were systematised within a Gender and Jurisprudence Observatory that seeks both to produce socio-legal knowledge and to make information on key rulings publicly accessible.

The article is grounded in Latin American feminist legal thought, especially the work of Alda Facio, Carolina Vergel and Marcela Lagarde, and in socio-legal approaches to public action. It adapts Laure Bereni's concept of the "women's cause space" to the Chilean context, proposing the notion of a "feminist cause space" to capture the interactions between institutional feminism and autonomous feminist movements. Findings show that gender equality has gained unprecedented institutional recognition in the judiciary through the creation of women judges' associations, strategic plans, specialised secretariats and an institutional gender policy. Yet jurisprudence remains ambivalent: only around 25% of decisions in which gender is explicitly invoked are favourable to equality claims. Courts frequently mobilise a discourse of legal neutrality that obscures power asymmetries, even when interpreting international treaties such as CEDAW and the Belém do Pará Convention. Through the analysis of conflicts related to sexual and reproductive rights, gender-based violence, care and labour rights—including the morning-after pill litigation and the Antonia Barra "femicide-suicide" case—the article argues that feminism has widened the boundaries of what counts as legal reasoning, challenged the idea of neutral adjudication and exposed territorial and cultural inequalities in access to justice. The Chilean case illustrates how gender mainstreaming is not only a matter of protocols and training but also a broader cultural and organisational transformation driven by feminist struggles.

Key words

Chile; feminism; gender justice; judiciary; Constitutional Court; gender mainstreaming; socio-legal studies.

1. Introduction

In recent years, Chile has become a privileged site for observing the encounter between feminism and the justice system. Mass feminist mobilisations—most notably the 2018 *Mayo Feminista* student protests against sexual harassment in universities (Zeran, 2018)—have intersected with a gradual, though uneven, institutional adoption of gender equality policies. These transformations have been particularly visible in the judiciary, a branch of the state traditionally associated with formalism, neutrality, and resistance to change (Sepúlveda and Vivaldi, 2024).

This article presents partial results from an ongoing research project that seeks to understand how feminism has influenced how Chilean courts address gender. Rather than focusing exclusively on legislative reforms or executive policies, the project looks at the judiciary as a key arena in which the gendered character of the state becomes visible. Courts are not only institutions that apply pre-existing rules; they are spaces where social conflicts are translated into legal language, where international human rights standards are interpreted, and where feminist claims can be either amplified or neutralised.

The central question guiding this article is how gender mainstreaming has taken shape within the Chilean judiciary and what role feminist actors and ideas have played in that process. To address this question, the study combines two types of material. First, it examines a corpus of 36 rulings from the Constitutional Court issued between 2004 and 2024 that explicitly invoke gender—through terms such as "discrimination based on gender," "motives of gender," "oppression," or "inequality." Second, it considers decisions of the Inter-American Court of Human Rights in which Chile has been held responsible for gender-based discrimination, as these cases provide a crucial external vantage point on domestic judicial practices.

All these sources have been systematised within an emerging Gender and Jurisprudence Observatory, developed with the participation of law and political science students at Universidad Diego Portales. The Observatory aims to create a public repository of landmark cases related to gender, thereby supporting research, teaching, and advocacy. At the same time, it offers a methodological tool for analysing how courts reason about issues central to feminist agendas: sexual and

reproductive rights, gender-based violence, labour and social protection, and the social organisation of care.

The article is organised into three sections. The first outlines the conceptual frameworks that inform the research and the methodological choices made. The second reconstructs the institutional trajectory of gender mainstreaming in the judiciary and presents the main findings of the jurisprudential analysis, including two emblematic cases. The third discusses how these developments contribute to a broader feminist re-imagining of justice in Chile, highlighting both advances and persisting obstacles.

2. Feminist frameworks and socio-legal methodology

2.1. Latin American feminist legal thought

Latin American and Caribbean feminist legal thought provides a critical foundation for this research. Building on traditions of critical legal studies, feminist scholars in the region have long demonstrated that law is not a neutral system but a discourse shaped by patriarchal, colonial, and racialised power structures. As Ried argues, critique is not merely oppositional but a means of imagining new legal horizons (Ried, 2022). Feminist interventions reveal how legal discourse centres male experiences, privileges certain interests, and authorises specific voices while silencing others.

Alda Facio's theorisation of "patriarchal legal neutrality" is particularly relevant (Facio and Fries, 1999). She demonstrates that the law presents itself as universal and objective while been historically constructed from male perspectives. This façade of neutrality allows gender hierarchies to persist while obscuring their roots in power relations. When courts claim to interpret norms "without ideology", they often recentre the status-quo. Because law interacts with other regimes of truth—such as medicine, science, religion—it may also absorb and reproduce these inequalities.

Carol Smart similarly cautions that legal discourse constructs gendered subjects and risks producing a homogeneous legal "woman" that erases difference (Smart, 2000). Law is a therefore a field of

struggle: while it has disciplinary effects, it also opens spaces for contestation and transformation.

Carolina Vergel extends this critique by examining tensions between feminist movements and their institutionalisation (2011). Gender-sensitive legislation – parity provisions, anti-violence statutes – may create important openings, but without deeper cultural change within institutions, their transformative potential remains limited. Judges and other legal actors often apply new laws through old interpretative frameworks. Marcela Lagarde's feminist ethics offers a complementary normative horizon centred on bodily autonomy, parity democracy and a critique of neoliberal universalism (Lagarde, 1996). Her work reminds us that rights are embedded in socio-economic structures and that the supposedly neutral legal subject hides racialised, classed and gendered inequalities.

A key contribution of feminist legal thought is its distinction between formal and substantive equality. While formal equality recognises women as identical legal subjects, substantive equality reveals how ostensibly neutral rules may reproduce disadvantage and underscores the need to address historical discrimination and material conditions that disproportionately affect women and gender-diverse groups (Facio y Fries, 2005).

Black, Indigenous and decolonial feminisms further deepen these these debates. Scholars such as bell hooks, Audre Lorde and Kimberlé Crenshaw argue that "women" is not a unified category but a site of intersectional and historically produced differences (hooks, 2004; Lorde, 1984; Crenshaw, 1991). Their insights—reworked by Latin American thinkers like Rivera Lassén, Espinosa and María Lugones—underscore that feminist legal projects that ignore race, class, coloniality, sexuality or ability risk reproducing Eurocentric exclusions (Rivera Lassén, 2015; Espinosa, 2016; Lugones, 2010). Decolonial feminism sharpens this critique by situating gender subordination within broader histories of conquest, dispossession and racial capitalism (Quijano & Ennis 2000; Lugones 2010).

From this perspective, the law in the region is simultaneously patriarchal, colonial and neoliberal, sustaining hierarchies that marginalise Indigenous, Afro-descendant, migrant and poor women. A feminist legal approach must therefore challenge the universalised legal subject and develop epistemologies rooted in local histories, struggles and communities.

Recent collective proposals—such as Arruzza, Bhattacharya and Fraser's *Manifesto for a Feminism for the 99%*—reinvigorate these debates by articulating an anticapitalist, antiracist and anti-imperialist feminist horizon (Arruzza, et al., 2019). This resonates strongly in Latin America, where feminist movements critique not only legal norms but also the socio-economic structures that condition access to rights.
These theoretical insights directly inform the analysis of feminism and law in Chile. Feminist mobilisation—particularly since the 2018 university uprisings and the 2019 constitutional process—has exposed how patriarchal and neoliberal legal structures sustain inequality (Vivaldi & Reyes Gil, forthcoming). They invite us to examine when courts reproduce or challenge appeals to neutrality, how they address autonomy, violence and care, and to what extent they recognise structural inequalities.

The article also draws on Laure Bereni's notion of the "women's cause space," adapted here as a "feminist cause space" to highlight the heterogeneous networks of actors, organisations and discourses that mobilise around gender justice (Bereni, 2009; Miranda et al., 2024).
Chile, feminist actors operate both within and beyond state institutions. Inside the judiciary, women judges, judicial officials and gender units seek to introduce feminist perspectives into training, regulation and adjudication. Outside, feminist organisations, student movements, survivor groups and advocacy networks exert pressure through public campaigns, strategic litigation and monitoring. These overlapping channels facilitate the circulation of feminist claims while also generating points of tension. The feminist cause space is therefore heterogeneous and sometimes conflictive: it includes institutionalised feminisms focused on policy implementation as well as autonomous currents that prioritise grassroots organising. Their interaction has shaped the possibilities and limits of gender-sensitive judicial reform, producing both openings and constraints.

In sum, Latin American feminist legal thought offers a critical and situated framework for analysing gender and law. By exposing the patriarchal, colonial and neoliberal dimensions of legal neutrality, it challenges the foundations of juridical authority and reveals how inequality is reproduced through interpretation, institutional culture and socio-economic conditions. Its intersectional and decolonial strands demand attention to racialisation, class hierarchies and histories of dispossession, while its normative proposals emphasise bodily

autonomy, parity democracy and substantive equality. Applied to the Chilean context, these insights illuminate both the possibilities and the limits of juridical transformation: courts can make feminist claims visible and provide avenues for recognition, yet they can also absorb or constrain more transformative ambitions. It is within this tension that the feminist cause space operates, shaping how feminist actors negotiate, contest and reshape law in the region.

2.2. Socio-legal and methodological approach

Methodologically, the research adopts a socio-legal perspective that conceives jurisprudence not as an isolated doctrinal output but as a practice situated within broader social, political, and institutional dynamics (Azocar et al, 2022). This approach builds on feminist socio-legal traditions (Bartlett, 1990) that understand law as a cultural and epistemic system, produced by actors who interpret norms through gendered assumptions, institutional logics, and historically embedded power relations. Judicial decisions are therefore analysed as *performative acts*: they both reflect and reproduce particular understandings of gender, rights, and citizenship, while simultaneously contributing to the ongoing renegotiation of these categories.

Rather than presuming that courts merely "apply" the law, the socio-legal approach emphasises that judges participate in meaning-making processes that are influenced by their professional socialisation, interpretative repertoires, and the institutional constraints under which they work. Decisions are thus read in dialogue with the discursive environment that surrounds them—such as public debates, feminist mobilisations, changes in legal education, and pressures derived from international human rights law. This allows us to examine not only what courts decide, but *how* and *why* they reason in certain ways, and what these reasoning patterns reveal about deeper structures of gendered power within the judiciary.

This approach also recognises that law operates simultaneously at multiple levels: as a formal normative system, an institutional field, and a lived experience shaped by social inequalities. Feminist legal theory has long stressed that legal neutrality is an illusion, and that the interpretation of norms is

mediated by cultural narratives about gender, authority, and legitimacy. By adopting this lens, the analysis seeks to uncover the implicit assumptions, silences, and selective emphases that structure the judiciary's engagement with gender, including moments when the judiciary resists, incorporates, or reframes feminist claims.

Finally, the socio-legal perspective foregrounds the relational dimension of judicial decision-making. Courts do not operate in isolation but are embedded in networks of accountability and influence that include other branches of government, international bodies, civil society organisations, academic expertise, and evolving gender-equality policies. Mapping these interactions allows us to trace how feminist ideas travel across institutional arenas and how they are translated, sometimes faithfully, sometimes selectively, into legal reasoning.

The main empirical material consists of:

- Thirty-six Constitutional Court rulings (2004-2024) in which gender appears as an explicit argument or category. These cases were selected through keyword searches and then coded according to type of right involved (sexual and reproductive rights, family and care, labour and social protection, others), outcome (favourable or unfavourable to the gender-equality claim) and references to international human rights instruments.
- Cases from the Inter-American Court of Human Rights in which Chile was found responsible for gender-based discrimination or for failing to protect women's rights.
- Institutional documents from the judiciary, including the Strategic Plan for Gender Equality, internal regulations, training materials and the 2018 Institutional Gender Policy.
- Secondary sources from feminist legal scholarship and socio-legal studies.

This combination of sources allows us to trace connections between formal institutional commitments, broader feminist struggles and concrete judicial outcomes.

3. Gender Mainstreaming and Jurisprudencial Transformations in Chile

3.1. Institutional milestones in the judiciary

The incorporation of a gender perspective in the Chilean judiciary is a relatively recent process, yet it has generated important political and symbolic shifts.

The first key milestone is the creation of the Association of Chilean Women Judges (MACHI) in 2013. MACHI emerged as an informal network of women judges who sought to support one another, promote gender equality and bring feminist concerns into judicial debates. Although it operated initially without official recognition, its members played a crucial role in positioning gender issues within institutional agendas.

A second turning point came with the XVII Ibero-American Summit of Supreme Courts, held in Santiago in 2014. At this meeting, the presidents of the region's high courts pledged to advance gender equality and combat discrimination. This external commitment provided a normative framework and a certain level of peer pressure that facilitated internal reforms.

In 2015, the Supreme Court approved the first Strategic Plan for Gender Equality[1], which set out objectives related to non-discrimination, training and the integration of human rights standards. Building on this foundation, the judiciary created the Technical Secretariat for Gender Equality and Non-Discrimination in 2017. The Secretariat has been responsible for designing training programmes, producing guidelines and supporting gender-sensitive initiatives across the judicial system.

The process culminated, at least symbolically, in 2018 with the adoption of an Institutional Gender Policy, elaborated through participatory processes that involved judges, staff and civil society organisations. The policy acknowledges international treaties such as CEDAW and the Belém do Pará Convention, commits the judiciary to eliminating discrimination and violence against women, and promotes the integration of a gender perspective in judicial decision-making.

The same year, Chile experienced the Feminist May student movement. Massive demonstrations denounced sexual harassment in

[1] https://secretariadegenero.pjud.cl/

universities and criticised institutional responses that tended to silence victims and protect perpetrators. This movement had a deep impact on public opinion and created a climate in which the judiciary could no longer ignore questions of gender-based violence and institutional responsibility. In this sense, the internal reforms in the judiciary cannot be separated from the external feminist pressure that both preceded and followed them.

3.2. Patterns in Constitutional Courts jurisprudence

Despite these institutional efforts, the analysis of 36 Constitutional Court rulings reveals a more ambivalent picture. In cases where gender is explicitly invoked, only about one quarter (25%) result in a favourable outcome for the party raising gender-equality arguments. In the remaining cases, gender is dismissed as irrelevant, redefined in narrow terms or overshadowed by other considerations such as property rights, freedom of conscience or the protection of a foetal "right to life." This pattern aligns with broader findings from the dataset, which show that when gender is explicitly mentioned, decisions are actually more likely to rule against human-rights claims: of the 20 cases with explicit gender arguments, 11 were decided against the claimant, compared with only 5 out of 16 cases where gender was not mentioned.

This suggests a structural resistance to gender-sensitive reasoning, even when international human-rights treaties such as CEDAW or Belém do Pará are applicable.

The cases cluster around three main thematic areas:

1. Sexual and reproductive rights (approximately 25% of the sample) include litigation over access to emergency contraception, conscientious objection in reproductive health services, and the interpretation of norms relating to abortion.

2. Family law and care (around 17%) address custody, parental authority, and care responsibilities, often reproducing traditional gender roles and assumptions about women's caregiving obligations.

3. Labour rights and social protection (about 15%) concern maternity benefits, workplace discrimination, and access to social security, exposing the intersection of gender with socio-economic inequality.

These substantive areas also correlate with the types of groups most affected. Nearly 45% of the cases concern women explicitly, and an additional 26% involve "women and family", while other groups—such as LGBTQ+ persons, children, or incarcerated women—appear only

marginally. This confirms that gendered disputes reaching the Constitutional Court are overwhelmingly concentrated among women navigating reproductive, family, labour, and social-protection regimes. Yet, the Court's reasoning rarely acknowledges the intersectional vulnerabilities that shape these experiences. Although the dataset includes cases involving poverty, children, and LGBTQ+ individuals, none of these categories were determinative in the Court's use of gender as a legal category, further illustrating the gap between intersectionality as a normative commitment and its operationalisation in judicial reasoning.

Across these thematic areas, the recurring feature is the Court's reliance on a discourse of legal neutrality. The Court often frames itself as a guardian of abstract constitutional principles, insisting that gender should not "distort" the interpretation of norms. When gender arguments are accepted, they tend to be those that can be reframed within pre-existing doctrinal categories—such as formal equality before the law—rather than through an explicitly substantive or feminist analysis of power, discrimination, or structural inequality. This resonates with the findings on judicial voting behaviour: ministers most active in the Court show strongly divergent orientations, with several exhibiting consistent patterns of rulings against human-rights claims in gender-related cases. while others show a mixed or contradictory pattern, underscoring institutional fragmentation. Another notable pattern revealed by the data is the uneven distribution of gender-sensitive jurisprudence across territories. Explicit references to gender and international treaties appear overwhelmingly in decisions originating in Santiago. Of the 36 cases, 30 arose from Santiago, while only six came from other regions (Valdivia, Antofagasta, Melipilla, Cañete, and Toltén). Crucially, all cases invoking gender explicitly originated in Santiago; none of the regional cases included gender as a legal category. This reflects not only the centralisation of the Chilean judicial system but also territorial inequalities in access to gender-aware adjudication, exacerbating disparities that feminist legal scholars have long emphasised in Chile's regionalised socio-economic and institutional landscape.

These patterns together—unfavourable outcomes when gender is invoked, the discursive privileging of neutrality, ministerial polarisation, and the capital-regions divide—illustrate a persistent decoupling

between the judiciary's institutional commitments to gender equality and its actual interpretive practices. Far from signalling a consolidation of gender mainstreaming, the Constitutional Court's jurisprudence reveals deep structural resistances, selective engagement with feminist claims, and limited willingness to integrate substantive gender analysis into constitutional reasoning.

3.3. Emblematic cases: contrasting trajectories of feminist *legal mobilisation*

Before turning to each case, it is important to note why these two examples were selected. They represent two distinct but complementary pathways through which feminism has interacted with the Chilean justice system. The morning-after pill litigation is emblematic of judicialized struggles around sexual and reproductive autonomy, shaped by long-term conservative legal mobilization and counter-mobilization by feminist organisations. By contrast, the Antonia Barra case emerged from a moment of explosive feminist public outrage, bypassing the Constitutional Court and immediately involving the political branches, while also activating international human-rights norms in ordinary criminal adjudication.

Together, these cases illuminate how the feminist cause space in Chile—the dynamic and hybrid field of actors, institutions, discourses, and repertoires of action (Miranda-Pérez, et al, 2024)—operates across different arenas: judicial, parliamentary, media, community-based, and transnational. They also show how Chile's socio-political context—marked by conservative moral legacies, neoliberal governance, student and feminist uprisings, and increasing distrust in institutions—shapes the possibilities and limits of feminist interventions in law.

3.3.1. The morning-after pill litigation*:* a decade-long struggle over reproductive autonomy

The controversy surrounding the emergency contraceptive pill (EC) is one of the most significant reproductive-rights conflicts in Chile's recent history. Its trajectory is emblematic of how reactive conservative legal mobilization (Vaggione, 2005) and feminist counter-mobilization collide in a highly juridified political environment. As Muñoz (2014) demonstrates, this conflict unfolded across courts, regulatory agencies, municipal governments, pharmacies, religious institutions, and the

media—illustrating the multi-sited nature of struggles over reproductive governance.

Beginning in the early 2000s, conservative actors—including Opus Dei networks, pro-life organisations, and sympathetic parliamentarians—instrumentalised constitutional litigation to challenge administrative authorizations of the emergency contraceptive pill, framing it as "abortive" despite the lack of scientific evidence. These actors strategically deployed the language of legal neutrality and scientific uncertainty, insisting that any risk to embryonic life justified prohibition. Their arguments resonated with a Constitutional Court historically inclined to protect conservative moral values and suspicious of sexual-and-reproductive autonomy claims.

Feminist and public-health actors, meanwhile, mobilised a broad repertoire: expert evidence, amicus briefs, street demonstrations, ministerial regulations, municipal distribution schemes, and transnational advocacy linking EC pill access to CEDAW and to reproductive justice frameworks. The feminist cause space thus articulated itself across institutions and outside them—through NGOs, academia, grassroots networks, and health professionals—building a discursive coalition around bodily autonomy, equality, and public health.

During the 2008 case, the Constitutional Court struck down public distribution of EC, crystallising the power of conservative legalism. As Muñoz shows, the ruling was exceptionally long, doctrinally dense, and selectively relied on scientific ambiguity, effectively reinforcing structural reproductive inequalities: the pill remained available in private pharmacies but became inaccessible to low-income women dependent on the public health system.

This outcome reveals several features of the Chilean socio-political context:

1. Strong judicial conservatism in moral and reproductive matters, shaped by the legacy of the dictatorship and the constitutional design of the 1980 Constitution.
2. High levels of judicialisation, where political conflicts are displaced into courts.
3. Deep class inequalities, which make access-to-health disputes also disputes over social citizenship.

At the same time, the case generated unprecedented feminist mobilisation, including the massive 2008 *Pildorazo*, which reframed the conflict as one of democratic inequality and state paternalism. The movement's persistence contributed to later legislative victories, including Law 20.418 (2010), which eventually guaranteed access to emergency contraception.

From the perspective of the feminist cause space, the morning-after pill litigation demonstrates how feminist actors engage in long-term juridical struggles, often in adversarial relation to conservative legal elites. It also shows how reproductive-rights conflicts become symbolic battlegrounds, where anxieties about gender roles, sexuality, and national identity are negotiated. Unlike the Antonia Barra case, however, this struggle did not immediately reshape criminal or constitutional doctrine; instead, it exposed the structural limitations of relying on courts to achieve gender justice when judicial cultures remain tied to formalism and neutrality.

3.3.2. The Antonia Barra case and the emergence of "femicide-suicide": feminist outrage, legislative transformation, and international norms

The case of Antonia Barra differs markedly from the emergency contraception litigation in its origins, temporalities, and institutional effects. Rather than unfolding through a decade of judicial battles, it erupted abruptly into public consciousness, catalyzing one of the most powerful moments of feminist outrage in Chile since the 2018 student feminist mobilisations.

In September 2019, Antonia Barra, a 21-year-old woman, was raped by Martín Pradenas. She later disclosed the assault to her ex-partner, who reacted by accusing her of infidelity, recording the conversation, and circulating the audio. Antonia took her life the next day. The circulation of the audio, the subsequent testimonies of other victims, and the perceived failures of early prosecutorial and judicial responses—including the initial refusal to impose pre-trial detention—generated widespread indignation. Her death became a symbol of institutional revictimisation, patriarchal disbelief, and the broader failures of the Chilean criminal justice system to address sexual violence.

Unlike the EC pill case, which unfolded primarily within courts, the Antonia case rapidly expanded beyond judicial institutions and mobilised the broader feminist cause space: survivor collectives, student

groups, territorial assemblies, NGOs, journalists, legal clinics, and families of victims. Mass protests, vigils, social-media campaigns, and public statements by feminist organisations reframed Antonia's death as a political event revealing systemic gender violence.

This case also involved multiple political institutions from the outset, and in a way that the morning-after pill litigation did not. In August 2020—during the first trial against Pradenas—members of Congress introduced a bill to reform sexual-offence procedures, extend prescription periods, and create a new criminal category: *suicidio femicida*. This political response preceded any Constitutional Court intervention and reflected the exceptional public pressure generated by Antonia's case. The law, enacted in December 2022, codified suicide femicide as a form of gender-based lethal violence resulting from sustained abuse, coercion, or psychological harm.

The criminal proceedings against Pradenas also illustrate the specificities of Chile's socio-political and judicial context:

1. The initial sympathy shown by the court to Pradena´s(denial of pre-trial detention) reinforced public perception of gendered bias in criminal adjudication.
2. The Supreme Court's annulment of the first conviction due to lack of impartiality highlighted tensions between judicial guarantees and feminist demands for justice.
3. The second conviction—17 years for seven sexual offences against six victims—occurred amid intense public scrutiny, reflecting how feminist mobilisation can shape prosecutorial and judicial behaviour.

The first judicial application of *suicidio femicida* in August 2025 (La Neta, 2025), in the conviction of Heraldo Brevis, shows how Antonia's case continues to transform legal doctrine. The ruling recognised that years of physical, psychological, and economic violence can directly cause a woman's suicide. At the same time, the relatively low sentence (substituted by intensive probation) triggered debates within feminist legal circles about punitivism, symbolic legislation, and the limits of criminal law as a tool for gender justice. Scholars such as Olavarría (2025) emphasise the tension between *naming* gendered harm and producing proportionate sanctions, raising questions about whether the law represents a substantive advance or a symbolic gesture.

Crucially, the Antonia case is also one where international human-rights norms explicitly entered judicial reasoning—something largely absents from the morning-after pill litigation. Courts referenced the Belém do Pará Convention and the Inter-American Court's standards on due diligence and revictimisation, framing state obligations in terms of preventing further harm. This indicates that the feminist cause space not only pressured political institutions but also channelled transnational feminist legal frameworks into domestic adjudication.
Taken together, the two cases illustrate how the discourse of legal neutrality operates as a mechanism for filtering, constraining, or reframing feminist claims. In the morning-after pill litigation, neutrality was invoked explicitly: the Constitutional Court presented its decision as grounded in "objective science" and constitutional formalism, while in practice adopting a conservative moral position that restricted women's autonomy. By contrast, in the Antonia Barra case, neutrality appeared in the procedural sphere—through judicial disbelief, minimisation of harm, and reluctance to impose precautionary measures—forms of "objectivity" that reproduce gendered stereotypes about credibility and responsibility. In both cases, feminist mobilisation exposed the political nature of these supposedly neutral judgments, revealing neutrality not as an absence of ideology but as a discourse that stabilises existing hierarchies. This comparative lens therefore makes visible the concrete ways in which legal neutrality shapes Chilean jurisprudence and the conditions under which it can be challenged.

4. Feminism and the Reconfiguration of Justice in Chile

The empirical findings discussed above suggest that feminism has already reshaped Chilean justice in meaningful ways, while simultaneously revealing the limits of this transformation. Three interrelated dynamics emerge.

First, feminist interventions have broadened what can be argued and recognised within Chilean courts. Concepts such as bodily autonomy, structural violence, intersectionality, and care increasingly appear in judicial debates—even if inconsistently or implicitly. These concepts expand the epistemic boundaries of adjudication by demanding that judges situate cases within broader power relations rather than within narrow, formalistic frameworks. Importantly, even when feminist arguments are rejected, they compel courts to articulate their

reasoning more explicitly, thereby exposing the normative assumptions embedded in claims to neutrality.

This shift is evident in the growing use of international human-rights treaties—particularly CEDAW and the Belém do Pará Convention—by litigants and some judicial actors. Their invocation translates global standards into domestic jurisprudence and challenges interpretations that confine gender equality to formal, individualised conceptions. The very presence of these norms in judicial reasoning signals the erosion of the idea that fundamental rights can be adjudicated without attention to gendered and racialised inequalities.

Second, the Chilean experience demonstrates that transformations in justice stem from the hybridisation of institutional and autonomous feminisms. Within the judiciary, initiatives such as MACHI, the Gender Secretariat, gender protocols, and training programmes have incorporated feminist concerns into institutional agendas. At the same time, these internal reforms are inseparable from sustained pressure by feminist movements: the 2018 student mobilisations, survivor-led campaigns against impunity, LGBTQ+ organising, and community-based activism. This dynamic illustrates the feminist cause space in action—a multi-sited arena where actors inside and outside the state interact, collaborate, and sometimes clash to shape legal meaning.

Hybridisation has concrete effects. Feminist judges often serve as translators between institutional spaces and social movements, bringing external demands into internal debates and fostering incremental jurisprudential shifts. Lawyers engaged in cause lawyering strategically use litigation not only to win cases but to expose institutional failures, generate public debate, and expand the symbolic boundaries of justice. These practices contest hierarchical understandings of legal expertise and broaden the channels through which feminist knowledge circulates.

Third, despite these openings, the analysis reveals persistent obstacles to gender-transformative justice. Gender mainstreaming remains partial, uneven, and contested. Protocols and training programmes do not automatically translate into gender-sensitive jurisprudence when deeply rooted formalist traditions, fears of politicisation, and ideological resistance continue to shape judicial culture. This tension reflects what comparative scholars describe as institutional lag and decoupling: institutions adopt equality frameworks symbolically while underlying interpretive repertoires remain largely unchanged.

Territorial inequalities further complicate the picture. The concentration of gender-aware decisions in Santiago, coupled with the near absence of such reasoning in regional courts, underscores the risk that gender mainstreaming may reinforce existing hierarchies within the justice system. Any transformation must therefore address the differentiated capacities, cultures, and socio-legal contexts of courts throughout the country.

Finally, the predominance of punitive approaches to gender-based violence—as exemplified by the Antonia Barra case and the creation of the crime of *suicidio femicida*—raises important questions about the orientation of gender justice. While criminal law plays a crucial role in recognising and sanctioning violence, a feminist ethics of care suggests the need for a more holistic approach: one that strengthens prevention, supports survivors, transforms institutional practices, and acknowledges how class, race, migration status, disability, and territory shape experiences of harm and access to justice. Without this broader framework, punitive innovations risk producing symbolic satisfaction while leaving structural patterns of inequality and revictimisation intact.

5. Final thougths

The process underway in Chile invites a rethinking of justice itself. Following Lagarde, feminist justice must be oriented toward historical reparation—addressing not only individual harms but also the structural conditions that produce and sustain inequality. This requires understanding courts not as neutral arbiters but as institutions embedded in political, social, and epistemic hierarchies. Judicial decisions are shaped by the distribution of power, and by the capacity of social movements to articulate what counts as a legitimate grievance, a credible subject, and a just outcome.

From this perspective, the feminist cause space within the judiciary is both a product of and a catalyst for democratic struggle. Feminist actors blur the boundaries between law and politics, showing that decisions about whose bodies are protected, whose voices are heard, and whose suffering is recognised are never purely technical. They also reveal how courts can function as sites of resistance to authoritarian, conservative, and anti-gender projects—an especially salient point in a regional context marked by attempts to roll back sexual and reproductive rights.

The Chilean case is therefore of transnational relevance. It illustrates how international norms emerging from the post-Beijing framework are appropriated, contested, and resignified in local settings; how feminist movements strategically use litigation to defend and expand rights; and how gender mainstreaming can serve simultaneously as a tool for institutionalisation and a site of contestation. These dynamics highlight the ambivalence of juridical transformation: courts may recognise feminist claims, but they can also absorb and neutralise them, limiting their transformative potential.

Ultimately, the future of feminist justice in Chile will depend on sustaining this multi-sited feminist cause space—one capable of connecting institutional reforms with grassroots demands, resisting anti-gender backlash, and continuing to question the forms of neutrality and expertise that have historically structured the legal field. Feminism's contribution to the reconfiguration of justice lies not only in changing specific rulings or procedures but in transforming the very horizons of what justice can mean in a deeply unequal society.

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