

THIRD WORLD WOMEN AND THE (LIMITED) POTENTIAL OF THE INTER-AMERICAN CONVENTION ON THE PREVENTION, PUNISHMENT AND ERADICATION OF VIOLENCE AGAINST WOMEN

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1 INTRODUCTION

The increasing specialization and diversification of international law have been related to the idea of overregulation, as “specialized and (relatively) autonomous rules or rule-complexes, legal institutions and spheres of legal practice” have emerged (KOSKENNIEMI, 2006, p. 11). Despite that, several aspects of reality remain disregarded or silenced by international law. One area that continues to require more attention concerns the rights of women. Examining how international legal norms and processes reflect the domination of men, feminist approaches to international law have drawn attention to women’s (in)visible histories of violence, coercion, and exploitative inequalities (BROOKE, 2000, p. 37).

As a theoretical perspective aiming not only at critically analyzing international law, but also at reimagining it, feminist approaches to international law have been criticized for treating women as a unitary category. Defining woman in legal discourse through the generalization of the experience of white, middle-class, and Western women (BROOKE, 2000, p. 16), various histories of violence, coercion, and exploitative inequalities remained out of the international agenda. Among them, those of women in the Third World have gained certain centrality within feminist studies.

Within the international context, the category Third World women has been said to articulate a distinctive voice of resistance, or, more accurately, “a chorus of voices that blend, though not always harmoniously, in attempting to make heard a common set of concerns” (MICKELSON, 1998), which involves an equitable and just international order. The first part of this article illustrates such a distinctive voice through a brief analysis of the various debates concerning the meaning of violence against women. Drawing on Galtung’s distinction between individual and structural violence,² this section argues that the debate concerning violence against women has been informed primarily by the notion of individual violence and, when it has been considered as a form of structural violence, economic inequalities were not duly taken into account as an important feature of a structure in which women’s fundamental rights are not completely fulfilled.³

The overview of the debates in international fora indicates that the understanding of violence against women as a form of structural violence has set aside the additional layers and multiple dimensions of structural violence, in particular, those related to the unequal distribution of resources. Within this context, this article examines whether, within a regional perspective, marked by the presence of Third World countries⁴ and severe economic inequalities, a richer

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² Galtung (2009, p. 291-305) also discusses the notion of cultural violence, which is relevant to the feminist debate. Nonetheless, this article will focus on the notion of structural violence due to the centrality that the severe economic inequality that marks the international system has on the discourses related to Third World countries.

³ To Galtung (1969, p. 168), “violence is present when human beings are being influenced so that their actual somatic and mental realizations are below their potential realizations.”

⁴ The terminology Third World countries is used in reference to another theoretical perspective that has focused on the analysis of the history, structure and processes of international law to project an alternative vision of international

understanding of violence against women has gained space. In other words, it analyzes whether the adoption of a regional convention on violence against women was able to guarantee a certain degree of contextual adaptation, taking into account the multiple dimensions of the experiences, views, interests and needs of women who would be affected by such convention.⁵

For this purpose, the second part of this article analyzes the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women, also known as Convention of Belém do Pará,⁶ which was adopted within the inter-American system of human rights. This Convention has been said to reflect and actualise the normative framework provided by the Convention on the *Elimination of Discrimination against Women* (CEDAW) and to provide a stronger protection mechanism (GALANTI, 2013). In accordance to Tiroch (2010, p. 392), the Convention of Belém do Pará has established “a gender approach to human rights which concentrates on the roots and conditions that prevent women from enjoying their human rights.” The second part of this article examines, therefore, the extent to which the normative framework related to violence against women can offer a stronger protective shield to women in the Third World (CHIMMI, 2006; NUSSBAUM, 1999).

Examining the Convention of Belém do Pará in light of the broader debate on violence against women, this article argues that the Convention has not sufficiently addressed the concerns of women in the Third World. A structural understanding of violence against women, capable of taking into consideration the economic inequalities that lower the level of actual fulfillment of women’s fundamental needs, remains beyond the scope of the Convention.

Nonetheless, certain provisions of the Convention allow, at least, a richer understanding of violence against women. The ability of the Inter-American System of Human Rights to reflect this understanding is, therefore, related to the application of such provisions, including the provisions on reparative measures. To illustrate this potential, the article will briefly discuss the decision of the Inter-American Court of Human Rights (IACtHR)⁷ in the case *Gonzalez et al. v Mexico*, also known as the *Cotton Field case*.⁸

2 SILENCES IN INTERNATIONAL LAW

Law and, for our purpose, international law is concerned, by definition, with transnational standards. Therefore, it is not a surprise that the development of women’s rights has relied on a monolithic women’s perspective or interest. Nonetheless, the notion that all women share the

law capable of “enabling a life of dignity for the poor and the oppressed”: Third World Approaches to International Law (CHIMMI, 2007, p. 499).

⁵ This hypothesis is based on the assumption that “international law is or should be developed in a regional context because the relative homogeneity of the interests or outlooks of actors will then ensure a more efficient or equitable implementation of the relevant norms. The presence of a thick cultural community better ensures the legitimacy of the regulations and that they are understood and applied in a coherent way.” (KOSKENIEMMI, 2006, p. 106).

⁶ Reference will be made to Convention of Belém do Pará or to the Convention when referring to the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women throughout the article.

⁷ It is acknowledged that the Inter-American Commission of Human Rights has also had an important role in the interpretation of the Convention of Belém do Pará, not only as the entrance door to the inter-American system but also as an OAS institution responsible for the conduction of negotiation between the parties. See, for instance, the case *Maria da Penha v Brazil*.

⁸ I/A Court HR, Case of González et al. (“Cotton Field”) v. Mexico, Judgment of Nov. 16, 2009.

same interests regardless of class or caste, race, sexuality, ethnicity, religion, nationality, age or education has grown increasingly contested.⁹

Debates surrounding the natural and essential understanding of women have led to the creation of various categories within feminist studies. They have highlighted the fact that the category woman marginalizes various women's views and questions the power relationships that allow the experience of white, middle-class, and Western women to be generalized. The category Third World women can be situated in this context.

The different perspectives about the needs and interests of women and the necessary measures to achieve them have been clear since the World Conference of the International Women's Year. Ackerly (2000, p. 138) summarizes these differences follows:

At the World Conference of the International Women's Year in Mexico City in 1975, tensions emerged between generally western women who advocated equality and based their claims on an antidiscrimination paradigm and generally non-western women who were concerned about issues of social and economic justice and based their claims on critiques of militarist, capitalist, colonialist, and imperialist hierarchies within their countries and across the global political economy.

Even though violence against women has been on the international agenda since the 1970s (GARCÍA, 2016, p. 53), the topic was not central to the first World Conference. The core of the debate was the development of equal opportunities. In these lines, the 1975 Conference called for a convention on the elimination of discrimination against women. Work on the text of a convention was further encouraged by the General Assembly, which had urged the text of the convention to be completed in time for the 1980 review conference.

The CEDAW was adopted by the General Assembly in 1979 (Resolution 34/180). The General Assembly expressed the hope that it would come into force at an early date and requested the Secretary-General to present its text to the mid-decade World Conference of the United Nations Decade for Women. Common efforts were, therefore, directed at the ratification of CEDAW during the World Conference. As a consequence of the antidiscrimination paradigm adopted by CEDAW, even though the issue of violence against women was studied in greater depth, it was not framed as a topic of dissent during the 1980 World Conference, but as a mobilizing topic, capable of uniting those women concerned with discrimination and those concerned with social and economic justice (GARCÍA, 2016, p. 53).

Five years later, in 1985, at the World Conference to Review and Appraise the Achievements of the United Nations Decade for Women, violence against women was recognized as one of the major obstacles to achieve the goals set in 1975 (GARCÍA, 2016, p. 58). Even though it was acknowledged that "gender equality without social/economic justice would not address women's concerns" (SEN, 2005),¹⁰ violence against women was framed as a criminal law issue, which requi-

⁹ See, for instance, the discussion put forward by Mohanty. She reminds us, inclusively, that "the interests of urban, middleclass, educated ... housewives ... could surely not be seen as being the same as those of their uneducated, poor maids." (MOHANTY, 2003, p. 29).

¹⁰ It is important to note that the idea of gender equality has been rejected by some feminist movements in the Third World. In Paredes' (2013, p. 61-67) view, for instance, the term equality of gender rejects the political force of the notion of gender.

red the adoption of measures aimed at ensuring individual responsibility.¹¹ Violence against women was considered an act of personal or direct violence, i.e. an act in which a person directly harms another one (GALTUNG, 2009, p. 171).

Within the regional context, it is interesting to note that the Regional Action Plan for the Decade of Women in the Americas (1976 -1985) focused on promoting the full and equal participation of women in the social and economic life of the Organization of American States (OAS) Member States. The objective was to improve the living conditions of women, “widening women’s access to technical education, training, rural credit, and agricultural property, and concentrating on the rural and marginalized urban populations.” (ORGANIZACIÓN DE LOS ESTADOS AMERICANOS, 2016). Nonetheless, the lack of access to social, economic and cultural rights by women was not conceptualized by the OAS States as an example of structural violence.

In the 90s, violence against women started to be related to public health and a broader understanding of human rights. The 1993 World Conference on Human Rights, with the adoption of the Declaration on the Elimination of Violence against Women (UNITED NATIONS GENERAL ASSEMBLY, 1993), has been considered a “turning point in the recognition of women’s rights and, particularly, in the expansion of the concept of violence against women.” (GARCÍA, 2016, p. 59). Violence against women was not strictly seen as a fact that had exclusively an impact on the lives of women, which impaired or nullified the basic human rights of women. The negative social consequences of violence against women started to be thematized. Initially, the impact of violence against women on public health expenditure was acknowledged. Later on, violence against women would be perceived as a major economic cost, which included “expenditures on service provision, forgone income for women and their families, decreased productivity.” (WORLD BANK, 2014, p. 66).

The broader consequences of violence against women were, to a certain extent, reflected in the definition of the Declaration on the Elimination of Violence against Women. Violence against women was defined as “any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.”¹² This definition was further developed by Article 2 of the Declaration, which exemplifies the different forms of violence against women including physical, sexual and psychological:

Violence against women shall be understood to encompass, but not be limited to, the following:

- a. Physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation;
- b. Physical, sexual and psychological violence occurring within the general community, including rape, sexual abuse, sexual harassment and intimidation at work,

¹¹ According to García (2016, p. 57), “between 1970 and 1990, the conceptualization of violence against women by many academics, activists and international institutions was directed towards the definition, prosecution and punishment of the crime.”

¹² Article 1 of the Declaration on the Elimination of Violence against Women.

in educational institutions and elsewhere, trafficking in women and forced prostitution;

c. Physical, sexual and psychological violence perpetrated or condoned by the State, wherever it occurs.

To García (2016), the definition of violence against women in the Declaration allowed violence against women to be associated with the debates on economic growth.¹³ Nonetheless, despite the growing economic inequality among and within nations in the 1990s, the impact of such inequality or of the development measures adopted by Third World countries was not articulated as a possible cause of violence against women. The socioeconomic oppression of women and the socioeconomic circumstances of their families were not encompassed within the definition of violence against women. The fact that “violence is built into the (economic) structure and shows up as unequal power and, consequently, as unequal life chances” (GALTUNG, 2009, p. 171) was widely disregarded.

According to Ackerley, legal developments in the area of women’s rights have been based on an antidiscrimination paradigm and accompanying analysis, rather than on questions of national and international socioeconomic justice, which constitute a relevant part of the political agenda of Third World women (GALTUNG, 2009, p. 171). The antidiscrimination paradigm has not been able to adequately address the experiences that Third World women face due to the impact of international economic power in an era of development restructuring and globalization. Violence against women was presented as a unifying theme among women, obfuscating important disagreements among women around the kind of changes envisioned and around what would be necessary to bring them about (ACKERLY, 2000, p. 143). As such, violations of women’s human rights that are not within States’ control, but are instead a function of global political and socioeconomic realities, such as the sex trade and the sexual exploitation of women remains largely unaddressed (CHARLESWORTH; CHINKIN; WRIGHT, 1991, p. 631; BROOKS, 2002, p. 345, 353).

In light of the limited scope of the prohibition of violence against women, the right to development has gained relevance as a legal framework capable of addressing structural features of the international order, as it not only encompasses a synthesis of all recognised human rights but also has at its core the aim of redressing economic inequality. Furthermore, it illustrates how certain structural constraints that the world economy imposes on one set of countries as opposed to another have a tangible impact on the lives of women. As such, the right to development has drawn attention to the fact that violence against women cannot be understood exclusively as an abnormal, individual behavior, which can be dealt exclusively through criminal law. Yet it is part of the structure of the universal subordination of women and Third World countries. This reality is illustrated, for instance, in the arguments presented by México in the *Cotton Field case*:

According to the State, one of the structural factors that has led to situations of violence against women in Ciudad Juárez is the change in family roles, as a result of women working. The State explained that in Ciudad Juárez, the maquiladora industry was established in 1965 and expanded in 1993 with the North American Free

¹³ “These debates have evolved from an idea of criminal policy, to an issue of public health, and more recently to a topic of economic efficiency and market access.” (GARCÍA, 2016, p. 56).

Trade Agreement. It indicated that by giving preference to hiring women, the maquiladora industries caused changes in women's working lives that also had an impact on their family lives because 'traditional roles began to change, with women becoming the household provider.' This, according to the State, led to conflicts within the family because women began to be portrayed as more competitive and financially independent. In addition, the State cited the CEDAW report, indicating that '[t]his social change in women's roles has not been accompanied by a change in traditionally patriarchal attitudes and mentalities, and thus the stereotyped view of men's and women's social roles has been perpetuated.' (LÓPEZ, 2012).

The following section examines the extent to which the Convention of Belém do Pará provides an adequate framework to address such contexts of structural violence through the analysis of the decision of the IACtHR in the *Cotton Field case*.

3 THE (LIMITED) POTENTIAL OF THE CONVENTION OF BELÉM OF PARÁ

The Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women (Convention of Belém do Pará) was adopted in 1994 by the General Assembly of the OAS, following the adoption of the Declaration on the Elimination of Violence against Women. The Convention was drafted by the Inter-American Commission on Women, an intergovernmental institution whose mission is to assist OAS Member States in their

efforts to comply with their respective international and inter-American commitments on women's human rights and gender equity and equality, so that they are converted into effective public policy, contributing to the full and equal participation of women in the civil, political, economic, social, and cultural spheres.¹⁴

Within this broader mandate, it could be expected that violence against women would be understood as a form of structural violence, which encompassed not only gender discrimination but also other types of discrimination. The Preamble of the Convention states in its third consideration that violence against women is "a manifestation of the historically unequal power relations between women and men."¹⁵ At first sight, the reference to the power imbalance between sexes seems to reduce the discussion of violence against women to a context of gender discrimination. Nonetheless, it does not impede such power imbalance to be aggravated by other factors, such as race, economic status, ethnicity, etc. The combination of these factors further constrains women's agency, forcing them into subordination.

Article 6(b) of the Convention provides a stronger framework for understanding violence against women within a structural violence framework, as it makes clear reference to "stereotyped patterns of behaviour and social and cultural practices based on concepts of inferiority or subordination." There is no specific reference to the stereotypes related to the role of women and men, opening the scope of the debate once more. When it comes to Article 9, which requires States to "take special account of the vulnerability of women to violence by reason of [...] their

¹⁴ Article 2 of the Statute of the Inter-American Commission of Women.

¹⁵ It is important to note that similar wording is used on the 6th consideration of the Declaration.

race or ethnic background¹⁶ or their status as migrants, refugees or displaced persons” as well as to consider whether they are pregnant, disabled, minor age, elderly, socioeconomically disadvantaged, affected by armed conflict or deprived of their freedom, it becomes more evident that the text of the Convention acknowledges that the concepts of inferiority and subordination can take on multiple or intersectional forms.

Nonetheless, the Convention does not clearly challenge the underlying social, political and economic structures that can aggravate gender inequality. Article 3 of the Convention, for instance, provides that “every woman has the right to be free from violence in both the public and private spheres.” This provision reduces the impact of the distinction between the private and public spheres in the definition of the measures aimed at preventing and eradicating violence against women.¹⁷ Nonetheless, even when related to the public sphere, the Convention still relates violence against women to an act of individual violence, i.e. violence that has a clear subject-object relation and is “easily captured and expressed verbally since it has the same structure as elementary sentences in (at least Indo- European) languages: subject-verb-object, with both subject and object being persons.” (GALTUNG, 2009, p. 171). As such, the responsibility of the State, in cases of acts of violence practiced by third parties, might derive from procedural obligations that are related to a limited understanding of violence against women. In this framework, a State cannot be held responsible for maintaining a socially and economically unjust context that impedes the possible realization of women’s needs and increases the risks they face.

The impact of violence against women is addressed by Article 5 of the Convention, which states that

Every woman is entitled to the free and full exercise of her civil, political, economic, social and cultural rights, and may rely on the full protection of those rights as embodied in regional and international instruments on human rights. The States Parties recognize that violence against women prevents and nullifies the exercise of these rights.

Even though this article was framed to reflect the many consequences of individual acts of violence against women, it is important to recognize that several women in the Third World cannot fully exercise their economic, social and cultural rights. This context can by itself be characterized as violence against women. More importantly, though, it is also conducive to individual acts of violence against women. The statement below, given by a Latina living in the United States, illustrates this reality:

¹⁶ The reference to the ethnic background is particularly relevant in the inter-American system of human rights due to the cases related to indigenous communities. In the cases of *Ortega et al. v. Mexico* and *Rosendo Cantú et al. v. Mexico* (2010), the IACtHR recognized the lack of due diligence in investigating the facts and punishing the perpetrators and underlined the difficulties encountered by Indigenous women in accessing justice. The IACtHR took into account that indigenous communities conserve their traditions and cultural identity and reside in the poorest and most marginalized municipalities, constituting an especially vulnerable group, to which the national judicial system is, de facto, inaccessible, due to their distrust and fear of reprisals and to the language barrier. The IACtHR recognized that this context affected women in particular, who needed to overcome additional problems to access justice, such as the risks of being rejected by their communities in light of the facts of their case.

¹⁷ On the impact of the distinction between the private and the public spheres on women’s rights, see, for instance, Waylen (1996).

I have never called the police here because [he] told me that they will deport us if I do. I've thought about learning some English, but between work and the kids there is hardly any time. So I've never really asked anybody for help. Anyway sometimes he goes months without hurting me and I try to forget about it and just work. (RIVERA, 1994, p. 234).

Attempting to provide for a legal framework for redressing the damages caused by individual acts of violence against women within a structural context of violence, Article 9 of the Convention requires States Parties “to undertake progressively specific measures”, including programs:

- a. to promote awareness and observance of the right of women to be free from violence, and the right of women to have their human rights respected and protected;
- b. to modify social and cultural patterns of conduct of men and women, including the development of formal and informal educational programs appropriate to every level of the educational process, to counteract prejudices, customs and all other practices which are based on the idea of the inferiority or superiority of either of the sexes or on the stereotyped roles for men and women which legitimize or exacerbate violence against women;
- c. to promote the education and training of all those involved in the administration of justice, police and other law enforcement officers as well as other personnel responsible for implementing policies for the prevention, punishment and eradication of violence against women;
- d. to provide appropriate specialized services for women who have been subjected to violence, through public and private sector agencies, including shelters, counselling services for all family members where appropriate, and care and custody of the affected children;
- e. to promote and support governmental and private sector education designed to raise the awareness of the public with respect to the problems of and remedies for violence against women;
- f. to provide women who are subjected to violence access to effective readjustment and training programs to enable them to fully participate in public, private and social life;
- g. to encourage the communications media to develop appropriate media guidelines in order to contribute to the eradication of violence against women in all its forms, and to enhance respect for the dignity of women;
- h. to ensure research and the gathering of statistics and other relevant information relating to the causes, consequences and frequency of violence against women, in order to assess the effectiveness of measures to prevent, punish and eradicate violence against women and to formulate and implement the necessary changes; and
- i. to foster international cooperation for the exchange of ideas and experiences and the execution of programs aimed at protecting women who are subjected to violence.

The terminology used in Article 9, in particular, the term progressively, reflects an outdated understanding of States duties to implement economic, social and cultural rights. It further marginalizes economic rights since the reference to the idea of progressive implementation makes them difficult to monitor. Additionally, even though States are required to ensure research and the gathering of statistics and other relevant information relating to the causes of violence against

women, no reference is made to the economic context. The programmes provided for in Article 9 aim mostly at changing the patterns related exclusively to gender-discrimination.

The limited responsibility of States to change the broader structural context in which the rights of women are violated becomes clearer when Article 9 is read together with Article 7, which states: “the States Parties condemn all forms of violence against women and agree to pursue, by all appropriate means and without delay, policies to prevent, punish and eradicate such violence.” The measures to be adopted under Article 7 are related mostly to the criminalization of violence against women, i.e. to the understanding of violence against women as a direct personal act of violence.

The limited responsibility of the State in cases of violence against women has been reflected in the jurisprudence of the IACtHR. In the *Cotton Field case*, the first case in which the justiciability of the Convention of Belém do Pará was expressly recognized,¹⁸ the IACtHR concluded that it does not have jurisdiction over claims brought directly under Articles 8 and 9 of the Convention. Such Articles could, at most, be used to interpret Article 7 of the Convention of Belém do Pará and other pertinent Inter-American instruments, such as the American Convention. As explained by Bettinger-Lopez (2012, p. 321), “in this perspective, the programs outlined in article 8 [...] would give definition and specificity to the legal, legislative, policy, and administrative measures for eradicating violence against women that are laid out in article 7.”

The *Cotton Field case* has been considered one of the most progressive decisions regarding the recognition and application of a gender perspective analysis in the Inter-American human rights jurisprudence (LÓPEZ, 2012, p. 23). The case refers to the forced disappearance and death of González, Herrera, and Ramos, whose bodies were found in 2001 in a cotton field in Ciudad Juárez, and to the omissions in investigating the facts. The main topic of the judgment concerned the positive obligations of Mexico in this case of violence against women, which was committed by a private actor. Nonetheless, it is important to note that hundreds of young women have disappeared from Ciudad Juárez: “the official toll is 260 women killed since 1993, but local women’s groups believe the actual number is more than 400.” (ABC NEWS, 2017).

In order to attribute responsibility to the State, the IACtHR divided its analysis of the facts into two periods: the period before the report of the girls’ disappearance and the period between the report and the discovery of their dead bodies. Concerning the first period, the IACtHR did not consider Mexico responsible. Even though the incidents under analysis took place in a context of hundreds of cases of violence against women in Ciudad Juárez, the IACtHR decided that it could not establish that the Mexican authorities were aware of the real and immediate danger faced by the victims of this specific case. As explained by Tiroch (2010, p. 395-396): “the Court noted the greater responsibility of the State to protect women in Ciudad Juárez and criticized the absence of a general policy to fight the violence against women but it was not able to attribute international responsibility to these failures.”

Regarding the second period, the IACtHR decided that the State did not provide for an immediate and effective reaction nor investigation of the disappearances. The IACtHR noted that

¹⁸ On the issue of justiciability of the Convention of Belém do Pará, in addition to the articles that discuss the Cotton Field case already mentioned in this article, see Zuloaga (2016).

the Mexican government had, on various occasions, accepted that the discrimination against women had meant that murders of women in Ciudad Juárez had not been initially acknowledged as a serious problem requiring immediate and decisive action on the part of the corresponding authorities.

The decision of the IACtHR reflects the fact that the daily violence suffered by women, including the violation of their right to life, has remained invisible to the authorities and, to a certain extent, to society. The invisibility of the structural violence to which women are submitted can be perceived in the following quote:

[...] the subordination of women can be associated with practices based on persistent socially-dominant gender stereotypes, a situation that is exacerbated when the stereotypes are reflected, implicitly or explicitly, in policies and practices and, particularly, in the reasoning and language of the judicial police authorities, as in this case. The creation and use of stereotypes becomes one of the causes and consequences of gender-based violence against women.¹⁹

It is interesting to note that the representatives of the State recognized the multi-dimensional features of violence against women, stating that this kind of violence has been “influenced by a culture of gender-based discrimination”, exacerbated by the structural factor of the change in family roles in an inherently patriarchal society. This structural factor, as seen before, has been related to the economic context faced by women in Ciudad Juárez. This aspect was not addressed in the ruling of the IACtHR, even though the case could be perceived as part of a broader pattern of disappearances, rapes, and murders of *poor and predominantly migrant* women and girls.

Despite its silence towards the broader context of social injustice that increases the risks faced by women in México, the IACtHR stated that “reparations must be designed to change this situation so that their effect is not only of restitution but also of rectification. In this regard, re-establishment of the same structural context of violence and discrimination is not acceptable.”²⁰ The reparative measures ordered by the IACtHR were, therefore, guided by a holistic gender approach and a transformative agenda. For this purpose, the IACtHR affirmed that it would consider whether the measures requested by the victims and the Commission

(i) refer directly to the violations declared by the Tribunal; (ii) repair the pecuniary and non-pecuniary damage proportionately; (iii) do not make the beneficiaries richer or poorer; (iv) restore the victims to their situation prior to the violation insofar as possible, to the extent that it does not interfere with the obligation not to discriminate; (v) *are designed to identify and eliminate the factors that cause discrimination*; (vi) are adopted from a gender perspective, bearing in mind the different impact that violence has on men and on women; and (vii) take into account all of the juridical acts and actions in the case file which, according to the State, tend to repair the damage caused (emphasis added).²¹

¹⁹ I/A Court HR, Case of González et al. (“Cotton Field”) v. Mexico, Judgment of Nov. 16, 2009, para 401.

²⁰ I/A Court HR, Case of González et al. (“Cotton Field”) v. Mexico, Judgment of Nov. 16, 2009, para 450.

²¹ I/A Court HR, Case of González et al. (“Cotton Field”) v. Mexico, Judgment of Nov. 16, 2009, para 451.

Nonetheless, once more the economic aspects that could enhance the number cases of violence against women were not considered. It has been commonly argued that a woman's ability to access and control resources (especially economic assets) can have a bearing on whether she experiences or not violence against women (GARCÍA, 2016, p. 62). The Cotton Field case indicates that this relationship is not necessarily one of positive correlation: a specific woman might become a target of violence because she is able to access and control resources in a context of rising poverty.

The possible adverse impact of development policies on women has been greatly discussed in the literature. It has already been acknowledged that, sometimes, development policies rather than improving the socioeconomic status of the vast majority of Third World women have, to a certain extent, worsened it. "Women's relative access to economic resources, income, and employment has worsened, their burdens of work have increased, and their relative and even absolute health, nutritional, and educational status has declined." (CHARLESWORTH; CHINKIN; WRIGHT, 1998, p. 640). The Cotton Field case illustrates that even the risks they face might be increased by the adoption of development policies that does not take into account the gendered nature of society.

5 CONCLUSION

The potential of law to empower and protect women has been examined by various theoretical perspectives, and it is usually highly contested. With regards to international law, this article has illustrated the limits of this potential through the analysis of the Convention of Belém do Pará and its application by the IACtHR in the Cotton Field case. The focus on the Inter-American System of Human Rights was based on the understanding that, in a world characterized by rising economic inequalities, the geographic location of the individual is crucial to determining how the individual's agency is constrained, and how it makes an individual vulnerable to human rights violations.

The article examined, therefore, whether the Convention of Belém do Pará embraced a view of violence against women that could better reflect the context of structural violence in which women in the Third World live. The analysis of the provisions of the Convention of Belém do Pará indicates that violence against women cannot be understood exclusively as an abnormal, individual behavior. Violence against women has been adequately situated within a structural context of gender discrimination.

Nonetheless, the Convention still embraces an understanding of violence against women that is based primarily on personal acts of violence informed by gender stereotypes. The need to thematize economic equality within States as well as fundamental rights, poverty, development, and human security to deal with violence against women has not been reflected in the Convention. In other words, other layers of oppression which reinforce the discourse of subordination and inferiority of women have not been taken into account. This fragmented approach to the structural features of violence against women has not been able to provide a legal framework that could adequately address the concrete experience of women in the Third World, as illustrated by the analysis of the Cotton Field case.

The need to consider the impact of economic inequality on the ability of women to meet their needs has been put forward by Third World women throughout the debates concerning vio-

lence against women. This view does not reject the understanding that the subordination of women is based on gender stereotypes, which refer to a preconception of personal attributes, characteristics or roles that correspond or should be relate to either men or women, but allows a more complex understanding of how women in the Third World have had their rights structurally negated.

As acknowledged by the IACtHR, gender stereotypes, once reflected in policies and practices, as well as the acts and the language of State authorities, can be considered both as causes and as consequences of violence against women as seen in the Cotton Field case. Other structural factors, once aligned with gender discrimination, place a woman in the Third World at a greater risk of human rights violations than a woman in a developed country. Within the debate concerning violence against women, gender should, therefore, be considered a social axis along which other inequalities have been institutionalized. Gender stereotypes are, therefore, informed and reinforced by other systemic and structural causes. The silence of the Convention of Belém do Pará in regard to these other factors allows the everyday violence suffered by women in the Third World to become part of the social and political life, part of the routine. It increases the avoidable gap between their actual and potential abilities to meet their needs. In this context, the violence suffered by women remains invisible until it is contested by a brutal direct act of violence or, in the Case of Ciudad Juárez, by several acts of violence against women. When this point is reached, for the specific woman, the object of the direct violence, it is usually too late to be acknowledged as a subject of rights.

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