

FABIANA DAL MAS ROCHA PAES
VICE-PRESIDENTE OF ABMCJ /BRAZIL, SP
STATE PROSECUTOR IN SP BRAZIL – DOMESTIC VIOLENCE
COURT
MASTER OF LAW AT UNSW, SYDNEY, AUSTRALIA
DOCTORATE CANDIDATE AT UBA, BUENOS AIRES, ARGENTINA

The impact of the CEDAW (Convention on the Elimination of all forms of Discrimination Against Women) in South America related to reproductive rights

This treaty is seen as “an international bill of rights for women” because it forces States parties to undertake the necessary legal, strategies and programmatic procedures to ensure women’s full enjoyment of all human rights and fundamental liberties.¹ This is very significant Convention, because it was adopted by the United Nations General Assembly in 1979, by votes of one hundred and thirty to none, with ten abstentions. CEDAW entered into force on 3rd September 1981, with the deposit of twenty ratifications. Up to now, there were 189 States parties to the Convention. Somalia, Sudan and Iran have not become party to the CEDAW. It contains a preamble and thirty articles that define what constitutes discrimination against women and sets up an agenda for national action to end such discrimination. The CEDAW obliges governments to care, defend and fulfil the equal rights of women and men in their own jurisdictions.² The purpose of the Committee formed under this treaty is to observe its implementation, and it has played an important part in encouraging

¹ BYRNES, Andrew and FREEMAN Marsha, *The Impact of the CEDAW Convention: Paths to Equality*, 2012, World Development Report 2012, Gender, Equality and Development.

² HINTJENS, Hellen, UNIFEM, CEDAW and the Human Rights-based Approach file:///C:/Users/fabir/Downloads/_DevelopmentChangeGenderRightsUNIFEM.pdf

the execution of the treaty.³ The first section of this article provides an overview of the core elements of the Convention. The second section describes the Convention Optional Protocol ratification and the Committee as an important tool for its implementation and effectiveness. The third section exams how it has been implemented in a few countries in South America, specially related to reproductive rights and obstetric violence. The last section provides the conclusion of the research.

1) The Core Elements of CEDAW

At first look it might seem paradoxical that even though most of Latin American countries, including Brazil, have ratified Convention on the Elimination of all forms of Discrimination against Women (CEDAW) in 1984⁴, and consequently, accepted this important women's rights treaty, implicitly recognizing the value of international law, but they have not knowledge the real importance of this Convention up to now. But upon a closer look international law played an important role in the development of the law to protect women in relation to their reproductive rights not only in Brazil, but also in Latin America.

Reproductive rights have started to be considered human rights, therefore they have been included in the main international instruments becoming binding for States' parties with major responsibilities, as Byrnes and Connors accurately maintain: "in the context of general obligation to ensure the enjoyment of human rights, issues of state responsibility where non-state actors have committed human rights violations have been considered with increasing frequency in the recent years by international human rights bodies."⁵ One important form of violation of reproductive rights is the obstetric violence.

³ BYRNES, Andrew and FREEMAN Marsha, *The Impact of the CEDAW Convention: Paths to Equality*, 2012, World Development Report 2012, Gender, Equality and Development.

⁴ In 1984 Brazil signed CEDAW with reservations, but its full ratification happened in 1994.

⁵ Byrnes, Andrew; Emerton, Robyn; Adams, Kristine; Connors, Jane, *International Women's Rights Cases*, Cavendish publishing, U.K., 2005.

The concept of obstetric violence, even though has being cited in records from the 19th century, it has only lately gained popularity among childbirth activists' movements in Latin America. Brazil pioneered the debates in 1993 with the foundation of the Network for the Humanization of Labour and Birth (ReHuNa), which recognised the situations of violence and persecution in which care happens.⁶ An innovative event for the region was the First International Conference for the Humanization of Birth, held in 2000 in Brazil, where a cohesive group of Latin American researchers, health professionals and activists grouped in response to the high rates of childbirth interferences and growing acknowledgement of abuses toward birthing women.⁷

The RELACAHUPAN (Latin American and Caribbean Network for the Humanization of Childbirth) was founded in this meeting, leading the debate on women's right to respected childbirth within the region.⁸

As Michele Sadlyer and others assert: “the concept of obstetric violence has been promoted by civil society groups across borders. Argentina and some states in Mexico have framed obstetric violence within the broader legislations concerning gender inequalities and violence, stressing the unequal position of women – and pregnant women in particular – in the healthcare system and in society. Since 2014, five Obstetric Violence Observatories led by civil society groups have been founded, in Chile, Spain, Argentina, Colombia and France, and in March

⁶ S.G. Diniz, H. de Oliveira Salgado, H.de Aguiar Andrezzo. Abuse and disrespect in childbirth care as a public health issue in Brazil: Origins, definitions, impacts on maternal health, and proposals for its prevention. *Journal of Human Growth and Development*. 25(3): 2015; 377–384. 10.7322/jhgd.106080.

⁷ SADLYER, Michele and others, Moving ‘Beyond Disrespect and Abuse: addressing the structural dimensions of obstetric violence’, <https://www.tandfonline.com/doi/full/10.1016/j.rhm.2016.04.002>

⁸ SADLYER, Michele and others, Moving ‘Beyond Disrespect and Abuse: addressing the structural dimensions of obstetric violence’, <https://www.tandfonline.com/doi/full/10.1016/j.rhm.2016.04.002>

2016 they released a common statement declaring that obstetric violence has been one of the most invisible and naturalised forms of violence against women and that it constitutes a serious violation of human rights.” Basically the idea is based in: “... acknowledgement of the critiques of the medicalisation of maternity care settings and the violation of sexual and reproductive health rights.”⁹

Obstetric violence is one of the most common types of gender violence, that is related to women’s rights and reproductive rights. Many women around the world are killed by obstetric violence. Obstetric violence consists in one of forms of gender-based violence.

The United Nations description of gender-based violence was first presented in 1993 when the General Assembly passed the Declaration on the Elimination of Violence against Women. The definition of violence against women can be found in article 1 of this Declaration, which includes the protection of women from gender-based violence, both in public and private spheres.¹⁰ Article 2 of the Declaration on violence against women also provides important guidelines:

“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

⁹ SADLYER, Michele and others, Moving ‘Beyond Disrespect and Abuse: addressing the structural dimensions of obstetric violence’, <https://www.tandfonline.com/doi/full/10.1016/j.rhm.2016.04.002>

¹⁰ According to Article 1st of 1993 Declaration on the Elimination of Violence against Women from the General Assembly: "violence against women" means 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.”

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, 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.”

In addition to the Declaration one important treaty related to reproductive rights and ways to prevent obstetric violence is the Convention on the Elimination of all forms of Discrimination against Women (CEDAW).

The CEDAW was adopted by United Nations General Assembly on December 19, 1979. In 1981, it came into force, and has been ratified by many countries in Latin America and Caribbean region up to now.¹¹ In the global arena 189 States¹² are parties in this Convention, which is one of the most highly ratified international human rights treaties. The adoption of the CEDAW in 1979 “(...) was one the major achievements of United Nations Decade for Women”.¹³

The core principles that guide CEDAW are: equality, non-discrimination and State obligation.

¹¹ Antigua and Barbuda, Argentina, Bahamas, Barbados, Belize, Bolivia, Brazil, Chile, Colombia, Costa Rica, Dominica, Dominican Republic, Ecuador, El Salvador, Grenada, Guatemala, Guyana, Haiti, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Trinidad and Tobago, Uruguay and Venezuela, see United Nations, ECLAC; *Women and Development Unit, Violence Against Women in couples: Latin América and the Caribbean. A proposal for measuring its incidents and trends*; Almeras, Diane; Bravo, Rosa; Milosavljevic, Vivian; Montano, Sonia and Rico, María Nieves, Santiago, Chile, 2004, at www.Eclac.cl/publicaciones/sml/5/22695/lcl1744i.pdf, at 4th December 2010.

¹²United Nations Treaty collections, <http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4&lang=en>, at 10 March 2011.

¹³ Byrnes, Andrew, *The Other Human Rights Treaty Body: The work of the Committee on the Elimination of Discrimination Against Women*, The Yale Journal of International Law, Volume 14, Number 1, Winter 1989, U.S.A.

. Equality

According to the theoretical framework of this Convention equality means the acknowledgement that only formal equality, often based in a gender-neutral framing, policy or statute, may not be enough to ensure the full enjoyment of women's rights. It stresses three key elements of equality, such as "equality of opportunity", "equality to access of opportunity" and "equality of results". In South American periphery, suburbs and slums (*favelas*) – where many women live - for instance, women are formally entitled to the resources on equal terms with men, but State should ensure that there are no barriers for women to enjoy their rights (equality to access of opportunity). Lastly, States must demonstrate that progress has been made in terms of actual change in women's condition (equality of results).¹⁴ In South America, in the view of this article, currently there is not enough effort from the Government to provide "equality of opportunity", neither "equality to access of opportunity" nor "equality of results" to women. Equality must be ensured to all women, including the disadvantaged groups such as indigenous, black, disable, lesbian, trans, elderly and others.

.Non-discrimination

For the past five decades, fundamental rights and freedoms for all short of any discrimination between men and women have been recognized as key elements of the Human Rights international framework specially the CEDAW.¹⁵ As stated by article 1 of CEDAW, that reads: "For the purposes of the present Convention, the term 'discrimination against women' shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women,

¹⁴ A Resource Guide, Our Rights are not Optional, International Women's Rights Action Watch Asia Pacific, IWRAW, Malaysia, 2005.

¹⁵ Amnesty International, *Document - Claiming Women's Rights: The Optional Protocol to the UN Women's Convention*, at < [http: www.amnesty .org](http://www.amnesty.org)>, at 8 March 2011.

irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.”

CEDAW protects women against discrimination not only by public authorities, but also by private individuals and organizations. This definitional framework is “(...) relevant in many aspects of women’s lives, but no more so than when it applies to their physical and psychological integrity and well-being, especially when standing traditions, customs and attitudes;” Amnesty international highlights examples of violence against women that are relevant for the aim of this article “(...) the practice of female genital mutilation, ‘honour’ killings, and dowry deaths; or rape, including rape in armed conflict or marital rape, and domestic violence.” This means that if States fail to protect women from violence, or to bring to justice the perpetrators of obstetric violence and to compensate victims, they are breaching their obligation placed under CEDAW. However, fifty years later, women in many countries and in South America also “remain target of human rights violation for the very fact that they are women”.

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.State Obligation

Once States ratified the Convention they committed themselves to implement its standards at a national level.¹⁷ In 1984, Brazilian Government ratified CEDAW, consequently has to implement its standards. States should assume measures, at national level, to eliminate tolerance obstetric violence and to promote reproductive rights. The right of women to be free from obstetric violence has been recognized as a priority challenge; so to create mechanisms to enforce the

¹⁶ Amnesty International, *Document - Claiming Women’s Rights: The Optional Protocol to the UN Women’s Convention*, at < [http: www.amnesty .org](http://www.amnesty.org)>, at 8 March 2011.

¹⁷ A Resource Guide, *Our Rights are not Optional*, International Women’s Rights Action Watch Asia Pacific, IWRAW, Malasya, 2005.

law is a must in order to address this issue. Note that *de jure* and *de facto* access to adequate and effective judicial remedies is vital for eradicating the problem of obstetric violence, as is the States' fulfilment with their obligation practice due to diligence in prosecuting such acts.¹⁸

Nevertheless, one clear example of State's failure to fulfil its international commitments is the Aline Pimentel x Brazil case. The summary of the case: "Alyne Pimentel, an Afro-Brazilian woman, died at 28 years old of complications resulting from her pregnancy, after a health center in Rio de Janeiro failed to provide for appropriate and timely access to emergency obstetric care. Pimentel's death could have been prevented, if the health center had correctly diagnosed and treated her for intrauterine fetal death. Pimentel's death is not an isolated case. As highlighted by the petitioner, citing a WHO survey, "4,000 maternal deaths occur each year in Brazil, representing one third of all maternal deaths in Latin America." Moreover, a disproportionately high number of victims are among vulnerable groups, "especially women of African descent" (CEDAW, Concluding Observations on Brazil, August 2007). The CEDAW Committee decided that the case was admissible due to "an unreasonably prolonged delay", after 8 years passed without a definitive decision from the domestic court. On the merits, the CEDAW Committee found Brazil in violation of art.12 (2) of the CEDAW Convention and cited General Recommendation No. 28 (2010), which states "the policies of the State party must be action-and result-oriented as well as adequately funded" and that according to their General Recommendation 24, maximum available resources must be mobilized to ensure women's right to safe motherhood and emergency obstetric services. Therefore, the Committee found that the State violated the Convention in spite of its claims that it had made "qualified obstetric care" a priority in its National Plan for Women's Policies. The Committee also affirmed that "the State is directly responsible for the action of private institutions when it outsources its medical

¹⁸Inter-American Commission on Human Rights, OAS, *Access to Justice for women Victims of Violence in the Americas*, 20 January 2007, at <www.oas.com>, at 20 December 2010.

services, and that furthermore, the State always maintains the duty to regulate and monitor private health-care institutions".¹⁹

CEDAW symbolizes one of the most important frameworks specific to the recognition of Women's Human Rights. Evidently, this Convention speaks straight and positively about many of the concerns expressed by feminist critics of rights. As Nicola Lacey stresses "the Convention locates the realization of rights in its cultural context, and to some extent transcends gender essentialism by building in a recognition of certain important difference among women- for example, its specific reference to women in rural areas in article 14."²⁰

Regardless of the importance of CEDAW²¹, especially for South American countries, which had no previous law framework to protect women against obstetric violence, with the exception of Argentina and Venezuela, the concept of obstetric violence was not contemplated by this convention. CEDAW adopted a male-centred view of equality that "is reinforced by the Convention's focus on public life, the economy, the law, education."²²

General Recommendation 19 was enacted to fill in this gap, and it explicitly recognizes the concept of violence against women in its definition of gender-based violence as a type of discrimination against women.²³ Christine Forster and Vedna Jivan accurately state that "General Recommendation 19 specifically

¹⁹ Alyne da Silva Pimentel v. Brazil (Communication No. 17/2008)<https://www.escr-net.org/caselaw/2011/alyne-da-silva-pimentel-v-brazil-communication-no-172008>

²⁰ Knop, Karen; *Gender and Human Rights*, Oxford University Press, New York, USA, 2004, 53.

²¹ As Christine Forster correctly emphasis 'CEDAW, known as the International Bill of Rights for Women, ratified by Australia in 1980, obligate members to protect the sexual integrity of women.', in Forster, Christine; Jivan, Vedna; *Opportunity Lost: In Search of Justice for Victims of Sexual Assault*, UNSW Law Journal 758, 45, 28(3), 2005.

²² CEDAW, Preamble, article 5. Chalesworth, Hilary, *Taking the Gender of Rights Seriously*, Rethinking Rights, Gilligan, Brian and Sampford, Charles, the Federation Press Party Ltda, 1997.

²³ UN Doc CEDAW/C/1992/L.1/Add.15. Chalesworth, Hilary, *Taking the Gender of Rights Seriously*, Rethinking Rights, Gilligan, Brian and Sampford, Charles, the Federation Press Party Ltda, 1997.

deals with sexual violence against women and obligates member states to ensure that laws against family violence and abuse, rape, sexual assault and other gender-based violence give adequate protection to all women, and respects their integrity and dignity.”²⁴

According to CEDAW General Recommendation 19, paragraph 1 which reads: “Gender-based violence is a form of discrimination that seriously inhibits women’s ability to enjoy rights and freedoms on a basis of equality with man.”²⁵ This Recommendation clarifies also the definition of article 1 of CEDAW by including “gender-based violence, that is, violence that is directed against women because she is a women or that affects women disproportionately. It includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty”.²⁶ It is not a binding instrument but it is an aid of interpretation and a guide for States to fulfil their obligation with regards to violence against women. General Recommendations are also known as general comments that are authoritative interpretations by treaty bodies which move forwards in the analysis of articles and topics of their treaties, and guide States that are party to these Conventions on way to best put into practice Human Rights standards at the domestic level.²⁷

2- The CEDAW Committee

CEDAW and its General Recommendations are implemented through a State reporting mechanism. Currently the Committee on the Elimination of Discrimination Against Women (Committee) is the monitoring body of

²⁴ Forster, Christine; Jivan, Vedna; *Opportunity Lost: In Search of Justice for Victims of Sexual Assault*, UNSW Law Journal 758, 45, 28(3), 2005.

²⁵ Cedaw, General Recommendation n 19 (195.92), <http://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm>, at 5 September 2006.

²⁶ Cedaw General Recommendation n. 19 (1992), Violence Against Women, <<http://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm>>, at 5 September 2006.

²⁷ Iwraw Asia Pacific Occasional Papers Series, n.8, Addressing intersectional discrimination with temporary special measures, IWRAW, Malasya, 2006, 1.

CEDAW.²⁸ Retrospectively, the Commission on the Status of Women is the antecedent of the Committee. The Commission on the Status of Women was recognized in 1946 as one of the Commissions of ECOSOC (Economic and Social Council). Afterwards, the Committee was established under article 22 of the 1979 CEDAW, but held its first regular session on October 1982.²⁹ The latter is composed of twenty-three experts serving for a four-year term. In 1982 the Committee held its first session. The Committee essentially provides guidelines for States parties on reporting. Not only it hears State's reports, but also has makes suggestions and General Recommendations.³⁰

The initial stages of the work of the Committee was reached from 1982-88, when it was established procedures, examined reports of several parties, and begun to explore its broader attributions. The Committee has provided guidelines for the States periodical reports. Initial reports were intended to be detailed with subsequent reports being an updating nature. Ever since 1990, the pre-sessional working group has examined first the reports, than has deliberated, and finally has provided concluding comments. In addition to that, there have been States'

²⁸ United Nations, ECLAC; *Women and Development Unit, Violence Against Women in couples: Latin América and the Caribbean*. A proposal for measuring its incidents and trends; Almeras, Diane; Bravo, Rosa; Milosavljevic, Vivian; Montano, Sonia and Rico, María Nieves, Santiago, Chile, 2004, at , < www.Eclac.cl/publicaciones/sml/5/22695/lc11744i.pdf> , at 4th December 2010.

²⁹ Shaw, Malcolm, *International Law*, Fifth Edition, Cambridge University Press, Cambridge, UK, 2003, 300.

³⁰ As Malcolm Shaw stresses: 'Since 1997 the process of adopting general recommendation is preceded by an open dialogue between the Committee, non-governmental organization and others regarding the topic of the general recommendation and a discussion of a draft prepared by a Committee member. General Recommendation 5 called upon states parties to make more use of 'temporary special measures such as positive action, preferential treatment or quota systems to advance women's integration into education, the economy, politics and employment, while General Recommendation 8 provided that state parties should take further measures to ensure to women, on equal terms with men and without discrimination the opportunity to represent their government at the international level. General Recommendation 12 called upon states parties to include in their reports information on measures taken to deal with violence against women, while General Recommendation 14 called measures to be taken to eradicate the practice of female circumcision. General Recommendation 19 (1992) dealt at some length with the problem of violence against women in general and specific terms, and General Recommendation 21 is concerned with equality in marriage and family relations. In 1999, the Committee adopted a General Recommendation 24 on women and health.' In Shaw, Malcolm, *International Law*, Cambridge University Press, Fifth Edition, England, 2006, 300-301.

hearings, and the Committee has made suggestions and general recommendations to them.³¹

As Andrew Byrnes properly defines several measures that should be adopted by the Committee in order to enhance the Convention's overall effectiveness. First, it must act to assure that States Parties sufficiently implement their reporting obligations. Additionally, it should improve its own internal procedures to encourage more effective reports' consideration. Further, harmonized measures are needed to guarantee that specialized agencies play an important role in CEDAW's work. Added, the Committee needs to promote and facilitate NGOs engagement on its work. Fifth, the Committee must widen its agenda over the review of reports, by starting to develop a detailed jurisprudence of the Convention which draws together the accumulated Committee and State Parties' experiences. Finally, greater efforts should be done to combine the Committee's work with other relevant activities of the UN system to ensure that women's issues do not continue to be marginalized.³²

The achievement or failure of the Committee is assessed on the basis of whether contributes to public awareness and development of women's rights in domestic spheres. Andrew Byrnes elucidates that the reporting process should have "official and unofficial linkages back into the domestic forum if it is to have any significant impact on domestic policies." He complements his ideas by asserting that "developing these linkages represents the Committee's most important challenge, but it requires the cooperation of governmental organizations and independent NGOs to do so."³³

³¹ Shaw, Malcolm, *International Law*, Fifth Edition, Cambridge University Press, Cambridge, UK, 2003, 300.

³² Byrnes, Andrew, *The Other Human Rights Treaty Body: The work of the Committee on the Elimination of Discrimination Against Women*, *The Yale Journal of International Law*, Volume 14, Number 1, Winter 1989, U.S.A.

³³ Byrnes, Andrew, *The Other Human Rights Treaty Body: The work of the Committee on the Elimination of Discrimination Against Women*, *The Yale Journal of International Law*, Volume 14, Number 1, Winter 1989, U.S.A.

It is imperative to recognize that the Committee increased relevance after the enactment of the Optional Protocol to the Convention on Elimination of all forms of Discrimination against Women (Protocol) in 1999. Mary Robinson correctly asserts that the Optional Protocol: “(...) will act as an incentive for Governments to take a fresh look at the means of redress that are currently available to women at the domestic level.”³⁴

The Protocol is the legal instrument that implemented CEDAW by determining that it was possible for women to make individual complaints directly to the Committee. Moreover, this Protocol strengthened the Committee’s authority to ask States to fulfil the recommendations, turning them binding.³⁵ The Protocol considers complaints from individuals alleging a violation of the Convention by the States parties which became party to the Protocol.³⁶ Additionally it “creates an inquiry procedure enabling the Committee to initiate inquiries into situations of grave systematic violations of women’s rights where it has received reliable information of grave or systematic violations by a state party of rights established in the Convention.”³⁷

The Optional Protocol is a treaty “in their own right, and are open to signature, accession or ratification by countries who are party to the main treaty.” The Protocol includes the communications and the inquiry procedures, the former establish the right of individuals or group of individuals to complaint to the Committee about women’s rights violation stipulated by the CEDAW; the latter

³⁴ Amnesty International, *Document - Claiming Women’s Rights: The Optional Protocol to the UN Women’s Convention*, at < <http://www.amnesty.org>>, at 8 March 2011.

³⁵ United Nations, ECLAC; *Women and Development Unit, Violence Against Women in couples: Latin América and the Caribbean*. A proposal for measuring its incidents and trends; Almeras, Diane; Bravo, Rosa; Milosavljevic, Vivian; Montano, Sonia and Rico, María Nieves, Santiago, Chile, 2004, at , < www.Eclac.cl/publicaciones/sml/5/22695/lc11744i.pdf> , at 18 January 2011.

³⁶ Flynn, Martin, *Human Rights in Australia*, Treaties, Statutes & Cases, LexisNexis Butterworths, Australia, 2003, page 89.

³⁷ In Shaw, Malcom, *International Law*, Cambridge University Press, Fifth Edition, England, 2006, 300-301.

allows investigation, gives opportunity to the committee to make recommendations and to address the major issues.³⁸

3- How it has been implemented in a few countries in South America, specially related to reproductive rights

In the targeted region -South America- that includes Argentina, Bolivia, Brazil, Chile, Colombia, Ecuador, Falkands Islands (Maldivas), Georgia of South Island, French Guiana, Guiana, Paraguay, Peru, Suriname, Uruguay, Venezuela all the countries have signed CEDAW. We examined reports from Argentina, Brazil, Bolivia and Peru to have an overview of the problems related to reproductive rights. Brazil signed the Protocol in 13 March 2001 and ratified it in 28 June 2002. Colombia presented declaration to the Protocol, not recognizing the competence of the Committee provided for in articles 8 and 9 of the Protocol.³⁹

In relation to Argentina the last report recommendations of the CEDAW Committee in relation to reproductive rights are: "... the limited access to specialized health services, in particular sexual and **reproductive health services**, for women with disabilities;"

"(a) **Ensure access to counselling and education on sexual and reproductive rights for adolescent girls and boys**, conduct awareness-raising campaigns about modern contraceptive methods and increase access to safe and affordable contraceptives."⁴⁰

³⁸United Nations, < http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8-b&chapter=4&lang=en>, at 28 February 2011.

³⁹United Nations, < http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8-b&chapter=4&lang=en>, at 28 February 2011.

⁴⁰ CEDAW Committee, Concluding Observations 2016, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N16/402/15/PDF/N1640215.pdf?OpenElement>, in 29/09/2018.

With respect to Bolivia the last report recommendations of the CEDAW Committee in relation to reproductive rights are: **“the lack of comprehensive education on sexual and reproductive health and rights and family planning services, and limited access to modern contraceptives, including emergency contraception.; (b) Introduce age-appropriate school education on sexual and reproductive health and rights and ensure affordable access to services and information on sexual and reproductive rights for adolescent girls and boys**⁴¹

With respect to Brazil the last report recommendations of the CEDAW Committee in relation to reproductive rights are: **“...it is concerned that this programme might not sufficiently address all causes of maternal mortality as it merely focuses on care services for pregnant women. It regrets that women who undergo illegal abortions continue to face criminal sanctions in the State party and that women’s enjoyment of sexual and reproductive health and rights is being jeopardized by a number of bills under consideration in the National Congress, such as Bill No. 478/2008 (Estatuto do Nascituro).”**⁴²

With respect to Peru the last report recommendations of the CEDAW Committee in relation to reproductive rights are: **“...cases of some victims of the forced sterilizations undertaken in the context of the National Programme on Reproductive Health and Family Planning 1996-2000 have not been effectively investigated and the victims have received no compensation”**⁴³

⁴¹ CEDAW Committee, Concluding Observations 2016, https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fBOL%2fCO%2f5-6&Lang=en

⁴² CEDAW Committee, Concluding Observations 2012, [file:///C:/Users/fabir/Downloads/G1241695%20\(2\).pdf](file:///C:/Users/fabir/Downloads/G1241695%20(2).pdf)

⁴³ CEDAW Committee, Concluding Observations 2014, <file:///C:/Users/fabir/Downloads/N1448202.pdf>

Conclusions

Importantly, the incorporation of CEDAW in the domestic sphere in South America can generate reduction of maternity mortality in the region and the improvement of reproductive rights.⁴⁴

Equality and equitable standards are very hard to achieve. The principles of CEDAW such as non discrimination, state responsibility and equality can be a great path to be followed in order to improve reproductive rights in the region. Up to this point, the capitalism and globalisation are showing the complete failure of the international community to deal with the women's rights and reproductive rights, specially taking into account the failure to consider the separation of State and religion. Talking about reproductive rights is still a burden in the region. Significantly, the international debates should not be focused only in the development of laws, but also in the development of policies.

Consequently, the Millennium Goal campaign is one important way of initiate further reflection about this important issue such as Promote Gender Equality and Women's Empowerment, Improve Maternal Health and Reduce Child Mortality. Accountability needs to be developed in South America in order to move towards these goals.

Finally, South American countries have different sizes and realities and it is more likely that they will have different responses to the Millennium Development Goal. On one hand we find countries like Peru with extreme problems of Human Rights violations, such as forced sterilization of women, especially indigenous. Brazil that does not offer great reproductive rights assistance for women, Argentina that should ensure access to counselling and education on sexual and

⁴⁴ Venezuela information office, <<http://www.rethinkvenezuela.com/downloads/regionalcoop.htm>>, at 9 November 2006.

reproductive rights for adolescent girls and boys. Crucially, for some of South American countries the women's equality and reproductive rights seem to be very far from being achievable. Nevertheless, as Malala asserts: "one child, one teacher, one book, one pen can change the world." The participation of women of all world in setting of international norms and the need of minimum standards of women's rights are a challenge, there is much to be done and education is an important tool for future generations.