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**Gender in times of global governance: glocalizing
international norms around money and power, violence and
sex in Peru**

by

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Gender in times of global governance: glocalizing international norms around money and power, violence and sex in Peru¹

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Abstract

Internationally defined gender rights are glocalized in Peru by both state and non-state actors, especially international non-governmental organizations and trade unions. Looking at four different dimensions of gender disparities shows that the more institutionalized a women's issue is internationally, the more isomorphic it is nationally. The clear codification on the international level leads to the adoption of an identical provision on the national level without the modification of either the text or the spirit of the agreement. This is true for even very remote regions such as the Amazon Basin.

Regional human rights instruments of the Organization of American States (OAS) play a pronounced role in implementing global norms nationally. This is particularly the case for more recent issues such as violence against women.

Keywords: Gender, World society, Global governance, Glocalization, Violence.

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1 Introduction

The Problem

How are internationally defined gender rights glocalized in Peru? Glocalization is here understood as any form of adoption, implementation, or syncretization of international treaties. The chapter investigates how global governance mechanisms shape discursive and legal practices regarding four key gender issues in Peru: labor market discrimination, political representation, violence against women and reproductive rights.

Women's rights are an interesting example of the uptake of human rights more generally as they apply to half of humanity. Women's rights thus cover many different domains. I look at developments in Peru around four emancipatory gender issues laid down in treaties and conventions that have long been foci of women's movements across the world: equality at work, empowerment in political representation, the end of gender-based violence, and reproductive choice.

Examining the pertinent interviews and laws suggests that the more institutionalized the women's issue is on a global level or world regional level, the more adoption and less adaption takes place on a discursive and legal level. In other words, internationally well-defined rights are adopted one-to-one to the national context. Glocalization in these cases

means direct implementation of global norms disregarding the syncretization with local circumstances.

This paper adds to the world society (WS) scholarship in several respects. Regarding gender discrimination, the world society literature shows that most nation states have formally pledged to end all forms of discrimination against women by signing CEDAW and International Labour Organization's (ILO) non-discrimination conventions such as Convention 111 against Discrimination in Employment and Occupation (Abu Sharkh 2008; Min, Wotipka, and Ramirez 2008). WS scholarship has demonstrated the global symbolic acceptance of human rights as defined by the United Nations (UN) system (Meyer et al. 1997). However, there is no research on proving the implementation of women's treaties. World society scholarship has yet to examine the factors influencing the legislative and discursive uptake of women's rights on a world-regional, national, or local level.

Particularly, the role of the world-regional level in the global governance structure is under-examined in the world society literature. In Latin America, the Organization of American States (OAS), the Inter-American Court on Human Rights, and the American Convention on Human Rights took up the gender issue. According to Stacy (2009), world-regional human rights institutions play an increasingly important role in implementing human rights. How does the world-regional level affect the treatment of gender issues in Latin American countries?

The world society literature has also not examined how the conflict between different

human rights plays out on these various levels. There is an inherent tension in the international human rights instruments between first generation *individual* human rights norms for women's equity and third generation *collective* human rights norms protecting tribal traditions (Stacy 2009). Many of the latter do not put women on an equal footing with men.

Which human rights prevail under which circumstances? Ethnographic studies suggest that 'international packages' are often unpacked; some elements are accepted, others adapted, and yet others rejected by different factions in society (Elwert 1997). Thus, there may be significant variation in the degree of isomorphism, or one-to-one adoption, of different human rights. Some women's rights may be respected while others may be disregarded at the national or local level by different ethno-linguistic groups.

Peru serves as a fitting case study, as it boasts one of the highest cultural and ethno-linguistic fractionalization indexes in Latin America, occupying ranks 2 and 5, respectively, of 23 Latin American countries (Fearon 2003). It can thus illustrate whether or not different women's rights are adapted to different cultural traditions. I choose three disparate regions within Peru: an agricultural-indigenous region, an industrial-export region, and the capital.

To assess if there is variation in the implementation across women's rights, I look at four key gender issues canonized by CEDAW. These norms were carved out by different international organizations at different time points and at varying levels of specificity:

- (1) Money: Dating as far back as 1951, the International Labor Organization (ILO, the UN organizations specialized on work) proclaimed in Convention 100 and 111 that

gender-based pay discrimination was prohibited. Based on these conventions, the ILO pressures states to implement measures ending gender-based salary discrepancies. Do actors in Peru implement these conventions in their entirety or do they point out selective uptake out of principle, citing local requirements? Who are the key actors pushing through these norms?

- (2) Power: The Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW), adopted by the United Nations (UN) in 1979, put forth special measures to increase women's political participation. Article 4 of CEDAW is interpreted to suggest quotas for women, as it calls for special measures to advance the representation of women. CEDAW was ratified by Peru in 1982 without reservations. This stands at odds with later UN conventions, notably the ILO convention concerning Indigenous and Tribal Peoples (169). Peru ratified this convention in 1994. Whereas CEDAW promotes women in decision-making bodies, the Indigenous and Tribal Peoples calls for respecting tribal customs and traditions. These traditions, in the case of many Peruvian Amazon tribes, do not foresee the integration of women into political decision-making bodies. How does this tension between first generation and third generation humans play out in Peru?
- (3) Violence: Outlawing violence against women was a late bloomer on the international stage, only coming to the forefront in the 1990s. In Latin America, the Organization of American States, the Inter-American Court on Human Rights, and the American

Convention on Human Rights took up the issue of gender based-violence. Do these world-regional instruments substitute or complement world-level agreements regarding gender-based violence? In other words, do they serve as another platform to further world-level, international agreements, or do they try to adapt these agreements to local circumstances?

- (4) Sex: Of all gender rights, reproductive rights are the least canonized internationally. CEDAW Article 16 grants women the right to freely choose the spacing of their children, but whether or not this statement can be defined as women having the right to terminate a pregnancy is still embattled (Stacy 2009). As the most embattled of women's rights, what forms do national alliances for abortion take and how do they draw on world-level and world-regional agreements?

Two routes of investigation are pursued to give answers to these questions. First, by interviewing activists and experts in local human rights and feminist NGOs, unions, and employer associations as well as government ministers and legislators, I look at the *discursive* frames utilized surrounding women's equitable societal integration. Second, by looking at landmark laws and judgments on discrimination, the research gives a snapshot of the creation of a *legal* human rights structure.

2 Literature review

WS research has empirically demonstrated a pledge of allegiance to human rights norms by

nation states. Many empirical studies examine treaty ratification or structural changes in line with world society norms (Meyer et al. 1997; Bradley and Ramirez 1996; Meyer et al. 1992; Ramirez 2000; Ramirez et al. 1997; Thomas and Lauderdale 1988; Finnemore 1993; Frank et al. 2000; Boli 1987).ⁱⁱ A plethora of international organizations, from the UN to Greenpeace, have emerged in the last century and have pressured states to conform to these standards (Meyer and Ramirez 1998; Meyer, Boli, and Thomas 1997). For instance, the United Nations' Educational, Scientific, and Cultural Organization instructed states about the importance of establishing science policy state machineries (Finnemore 1993). The United Nations' specialized agency for work, the International Labour Organization (ILO), teaches states how to write a proper labor code (Abu Sharkh 2008).

In the concept of WS employed by Meyer et al. (1997) and Meyer et al. (1997a), 'WS' is understood as a partially integrated collection of world-level organizations, understandings, and assumptions that specify the *legitimate* way nation-states deal with domestic and international issues, therefore conferring legitimacy on nation-states (ibid.). This conceptualization does not reduce transnational activities to military alliances or economic exchange rationales. Rather, it allows conceptual room for the spread and impact of international ideas and norms. Due to this cultural dimension, Meyer et al. (1997) speak of a world *society*.

One of the most fervently promoted international norms is the concept of 'human rights', as formulated by the United Nations (UN) and its various specialized agencies. All individuals

are cast as equal bearers of these rights regardless of their ascriptive characteristics, such as race or gender (Finnemore 1996; Wobbe 2000). What comprises human rights has expanded substantially over the last half century. Ending discrimination in all realms against women, particularly, constitutes an increasingly central feature for the many different UN treaties and platforms that deal with this issue (Min, Wotipka, and Ramirez 2008).

The provisions of CEDAW, institutionalized in 1979, are the most important binding international commitments to promote the equality of women.ⁱⁱⁱ CEDAW states, 'In accepting the Convention, states commit themselves to take a series of measures to eradicate all forms of discrimination against women.' These include measures 'to incorporate the principle of the equality of men and women in their legal systems.'^{iv}

Almost all nation-states have ratified this convention creating 'isomorphisms' in states with vast economic and cultural differences (Meyer 1987: 42). These structures are externally oriented to gain prestige in the international arena.

However, to what degree do these state level isomorphisms have internal clout? Studies show a large degree of decoupling between state promises and actual occurrences (Leisering et al. 2006). Human rights violations are still widespread, despite official government declarations against them. In what they term the 'paradox of empty promises', Hafner-Burton and Tsutsui (2007) argue that governments often ratify human rights treaties as a matter of 'window dressing', with the worst offenders signing first.

Ethnographic literature demonstrates significant variation in the degree of isomorphism

across domains (Elwert 1997). I chose four under-examined domains of gender issues to examine what affects the degrees of isomorphism: money, power, violence, and sex.

WS research has not focused on labor market issues (except Abu Sharkh 2002, 2003, 2004, 2008), though work is the single most time-consuming activity, as well as the most physically, cognitively, and emotionally intensive one for most individuals. Little WS has been done, showing the effects of global governance on political representation (except Paxton et al. 2006). Violence against women has been on the forefront of the international governance agenda since the 1990s, though there are no WS-studies.^v Reproductive rights have long been a divisive issue around the world (Stacy 2009). Though CEDAW Article 12 specifies that women have ‘access to health care services, including those related to family planning’, it does not explicitly advocate ‘pro-choice’.^{vi} Consequently, nations have considerable leeway in that area. From a WS perspective, it is thus an especially interesting contrast to the more canonized international rights. The following section lays out how I tried to tackle these issues methodologically.

3 Methodology

My analysis employs expert interviews and participant observations. The interviews give a sense of whether the implemented laws were purposefully designed to align with human rights treaty provisions.

For the interviews, the initial sample of international non-governmental organizations (NGOs) was drawn from the Union of International Associations (UIA). The keywords

'women' and 'human rights' were used. This renders the organizations based in Peru purporting to focus on these issues.

In addition to using the UIA as a sample frame, I relied on the help of long-time activists and Ministers of Women Affairs and Social Development. They brokered contact to the various ministries and many Peruvian NGOs and union leaders. Once these contacts had been established, I conducted snow-ball sampling among governmental and non-governmental actors.

The interview-based methods of these inquiries are complemented by document analysis. On a national level, relevant documents span from national law and their interpreted texts to parliamentary speeches. On a supra-national level, judgments of OAS bodies and UN commissions provide information on Peru's implementation record. Reports to and from the various UN bodies, notably CEDAW and the ILO, also serve as a source concerning the debates around the implementation of standards. According to CEDAW, Peru is committed to submit national reports at least every four years on measures they have taken to comply with their treaty.

Finally, I look at some exemplary legal cases to see how, when, and by whom the international treaties were applied. There have been landmark judgments regarding the gender issues. Again, this does not prove that all women will benefit from these rulings. However, combined, this investigative trilogy lends some exemplary credence into the acceptance and impact of international treaties.

The three regions selected were the Lima and its surrounding areas (Lima), the export-oriented coastal region around Trujillo (La Libertad), and the more agricultural Amazonian region around Iquitos (Loreto). The inclusion of Lima was fundamental to the study, as I wanted to interview key government actors, the majority of whom find residence there. The Amazon, in many ways the counterpart to Lima, was chosen because it added to the sample a very remote region, in which tribal structures were still in place, allowing me to investigate the tensions between individual women's rights issues and collective, tribal issues. The coastal region was chosen specifically for its agro-export industry, which features some of the worst, unregulated labor practices against women and the weakest forms of protection such as unenforced laws and disenfranchised unions. This region has a high proportion of internal migration by indigenous people from the mountains.

4 Results: four key issues

4.1 Overview of non-discrimination treaties to which Peru is privy

The National Equal Opportunity Plan for Women and Men 2003-2010 is based on the recommendations in the following conventions, agreements, platforms, and regional plans to which Peru is a signatory: The International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the American Convention on Human Rights, 'Pact of San Jose', the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Optional Protocol to the CEDAW, the Inter-

American Convention on the Prevention, Punishment, and Eradication of Violence against Women, 'Convention of Belém do Pará', the Beijing Platform for Action, Fourth World Conference on Women, 1995, the Regional Programme of Action for Women of Latin America, and the Caribbean, ECLAC, 1994, the Programme of Action of the International Conference on Population and Development, Cairo, 1994.vii

4.2 Money: Discourse and laws on labor issues

Are world norms as ratified by the UN organizations applied? As the interviews would indicate, every government official, on a national and regional level, from Lima to the Amazon reported an application of the ILO-norms around gender non-discrimination in the labor market in principle. That is not to say that what the ILO conventions stipulate are actually executed 100% on the ground, but that there was no *reported* departure from the norms.

Susana Pinilla, Presidential Advisor, former Minister of Labor, and former Minister of Women Affairs and Social Development, is working on executing the Equal Opportunity Act and coordinating these goals with the Ministry of Labor. She points out that women still earn 30% less than men for equal work when they have the same training. She argued that ratifying a convention is key to cementing goals, as it provides an international framework that commits the country to fulfill them: 'It protects you by going beyond the time the current government is in power. So even if a law already exists against discrimination, as is the case

in Peru since 2007, it is still important that all appropriate conventions are ratified.’ She specifically cited the UN and CEDAW as being instrumental to the advancement of women. She was also well aware of the differences between the international organizations on different levels. She pointed out that the different international organizations focused on different aspects of women’s advancement.

Emerson R. Levenau Delgado, the Director of Work and Employment Promotion in La Libertad argued that ILO norms are valid for the entire world. He pointed out that the problem was not the differing goals, but that the ILO norms were not applied properly in informal employment. He cited various attempts to combat informality by examining and keeping track of companies’ employment registers. The problem with which many females in the labor force contended was that due to pregnancy, their work tenure tended to be shorter, disabling them from accruing pay based on seniority. Furthermore, they tended to be remunerated by piece.

Dr. Luis Rodriguez Benavides of the Anti-Poverty Table in Loreto made the following distinction: ‘The goals are the same, but there is a big difference between hearing and implementing. People have difficulty internalizing the goals. For people from Loreto that have never been outside of the region, it is still very hard to accept a woman as a boss.’ According to him, it was not that the goals of feminist NGOs were different, but that it was difficult to completely implement them.

The Minister of Labor Affairs, Manuela Garcia, argued that there are no key differences between international and local key strategies: 'Peru respects all the international norms.' She cited the most important goal as ending salary discrimination while explicitly citing the relevant ILO conventions 100 and 111.

The assessment of the Minister of Labor was echoed by her counterpart in the Amazon, the Director for Labor, Emerson R. Levenau Delgado. He argued that Peru had ratified many labor conventions and pointed out that this included the core conventions regarding discrimination, Convention 100 and Convention 111.

Manuela Garcia pointed to new legislation prohibiting pregnant women to be discharged from work in line with the new Maternity Protection Convention, Convention 183 passed by the ILO in 2000. Emerson R. Levenau Delgado pointed out that Peru has a domestic law of maternity leave that is in accordance with international provisions, as the domestic law allows for pre- and post-natal leave (90 days in total). Note that this actually falls short of the 98 days mandated by the ILO's convention.

Also, Manuela Garcia argued that the ILO Convention 111 referencing sexual harassment had inspired in the year 2002 the new legislation that prohibits sexual advances between men and women on the same level of hierarchy; the previous law merely forbade such advances if the perpetrator was a superior. The agro-export industry in La Libertad was especially ripe with such violations. Carmen Salazar, President of the Women's Regional Coordination Council of La Libertad, pointed out that in Peru's coastal La Libertad region,

the agro-export industry was a large employer. Chilean enterprises take mostly young women under 21 from the mountains to harvest asparagus and such vegetation. These young women were often subject to sexual harassment and labor abuse/neglect/mistreatment.

However, in close examination of the ILO Convention 111, there is no reference to sexual advances. It seems as if the ILO is given more credit than is due, perhaps due to social desirability response.

When asked with which organizations she collaborates, Manuela Garcia first cited international organizations, followed by regional organizations: the ILO, UN, Interamerican Development Bank, International Organization for Migration, USAID, American Federation of Labor, Andean Community of Nations, Canadian International Development Agency, and Japan International Cooperation Agency. This shows the permeability of the nation-state border when working on gender discrimination issues.

Ivan Vasquez, the Governor of Loreto, also professed that the ILO conventions served as a cornerstone for legislation. This does not, however, mean that the actual contents of the conventions are known in detail. Dr. Luis Rodriguez Benavides again points out that the domestic law gives women a right to an hour of breastfeeding (lactancia) until the child is one year old, and she can choose whether it is the first or last hour of the day in alleged accordance with the Maternity Protection Conventions. However, in the current reincarnation of the ILO Maternity Protection Convention, there is no specified amount of time to breastfeed.

Carmen Salazar, President of the Regional Coordination Council in the Libertad Region, points to breastfeeding rights when she describes how women's rights were eroded during Fujimori's presidency. For instance, he eradicated the hour a day set aside for breastfeeding; after giving birth, women no longer had a month off. She argues that the ILO is important, as they push laws and concepts that help growing indigenous movements

The only voice of dissent came from the industry, but not on grounds of principle. Javier Caro, President of the Chamber of Commerce of La Libertad, argues that the conventions are too abstract.

A way to circumvent the ILO labor regime is to set up shop in the coastal agro-export industry. According to Flor Nolasco Peres, Council of the Provincial Municipality of Trujillo, Libertad, this area has one of the worst labor conditions despite her attempts to work with CEDAL, the Center for Rights and Development, and the ILO to improve them.

Gladis Campus, President of ATDANA (Asociacion de Trabajadoras Despertando a un Nuevo Amanecer), notes that the agro-export industry is governed by a special agro-industry special labor regime since Fujimori. Fujimori made laws for every sector. For example, vacation normally is one month; in the agro-export industry, it is 15 days. The salary is lower. The enterprises only pay half of health care, if at all; one needs a contract that is longer than three months for health care, but the companies keep the 'asparigistas' on renewable one-month contracts. Also, there are many bronchial diseases in the agro-export industry, but these are not covered by the national health care system.

ATDANA is part of the La Federacion Nacional de Mujeres Campesina, Artesanas, Indigenas, Nativas y Asalariadas del Peru (FEMUCARINAP), which is part of the part of the network of Alianza por Derechos Laborales en la Agroindustria. More traditional union structures and indigenous movement organizations thus join forces to combat working condition in the agro-export industry.

One issue that was not mentioned much was that of sexual trafficking. The sexual exploitation of girls in mines is the responsibility of the Ministry of Agricultural Affairs, but they had not made it a priority on their agenda.

The respondents did not believe that the obstacles to upholding the ILO core conventions were unique to Peru. While perhaps not identical to those of other countries, differences were seen on a graduated scale rather than as distinct. For instance, the Minister of Labor reported that the difficulties women face are very similar to those faced by women in other South American countries, yet he argues that Peru has more protection for women's labor rights.

Discursively, all respondents professed both knowledge and adherence to international labor norms put forth in the relevant ILO conventions. That is not to say all workers benefit from them, but that the respondents' national laws were modeled after the relevant conventions. In Peru, there were no noted deviations from the long-established principles to equality in the labor market.

4.3 Power: quotas in political decision-making bodies

A second key gender issue is the participation of women in key political decision-making bodies. CEDAW recommends quotas. Internationally, a quota of 30% has become standard.

The effect of international organizations on the introduction of a gender quota in Peru is pronounced according to the interviewees. The gender quota was extended via regional law to remote corners of the Amazon, where women were traditionally not included in political decision-making. None of the interviewees suggested that quotas should not be implemented if it contradicted traditional culture. On the contrary, they pointed out that now that indigenous women were *regidoras*, this afforded opportunities to train them in gender consciousness.

Margarita Sucari, congresswoman and chair of the Parliamentarian Caucus of Women of the Peruvian Parliament that proposes laws to different ministries, argued that ‘CEDAW played an important role in Peru for establishing quotas.’ The Inter-Parliamentarian Union (IPU) was also fundamental to the introduction of the quota system in Peru: ‘The IPU publishes statistics on the percentage on women in parliament. They invite the Peruvian parliamentarians to forums, always publish numbers, and rank Latin American countries by how many female parliamentarians they have. A number of Latin American countries have subsequently introduced quotas: Costa Rica and Argentina in 1991, Peru in 1997.’^{viii}

Introducing quotas had a very large impact on moving various social issues forward. ‘About

35 female members of parliament now cooperate across party lines on issues of child labor, sexual exploitation and violence', she adds.

To increase women's participation in political decision-making bodies, the Peruvian State has adopted affirmative action measures, such as election quota laws. Article 116 of the current Elections Act (*Ley Orgánica de Elecciones*) increases the gender-equity quota, and provides that 'lists of candidates for Congress in each electoral district must comprise at least 30% women and at least 30% men. In electoral districts in which there are lists with three candidates, there must be at least one woman and at least one man'. The National Elections Board in plenary session established the number of female candidates that must occupy congressional seats through Resolution 057-2001-JNE (17 January 2001) and established the number of seats for each electoral district for the general elections in Resolution 068-2001-JNE (22 January 2001). Consequently, there was a significant jump in the percentage of women in parliament. Whereas the last uncontested election in 1996 had yielded 11% female parliamentarians, in 2001, the number jumped to 18.33%, and in 2006, it was 29 %. In 2011, however, it was down to 21.5%, showing that legislated quotas are not always attained.^{ix}

The Regional Elections Act, Law 27683 (March 25, 2002) regulated for the first time the election of regional authorities imposing a gender quota: 'Regional Council must consist of one candidate from each province in the order in which the political movement or party shall decide, including an alternate in each case; also, no fewer than 30% of men or women, and a minimum of 15% of representatives of native and rural communities in each region

where they exist, as determined by the National Elections Board (...).' The results for the 2002 municipal elections were thus that of the vacant positions among the Councillors (2,644 out of 10,289); 25.7% of those elected were female.

In 2007, the National Equal Opportunity Plan was passed to comply with CEDAW. However, the national plan needed to be executed in regional plans. As of March 2010, only 14 out of the 25 regions had implemented the plan.

The plan had been passed in Loreto, the Amazonian part of Peru, a region where human rights violations abound, as sexual exploitation occurs in mines or through sex tourism. When I visited in early 2010, Ivan Enrique Vasques Valera, the Governor of Loreto, reported that they had just adopted the Regional Equal Opportunity Plan.^x This had led to the cementation of the gender quota system in the Amazon. Women in tribes across the Amazon, who ten years ago had not been permitted to even partake in the communal meetings, were now '*regidoras*'. These '*regidoras*', or district leaders, were brought to the regional capital to be educated about their rights and assert leadership positions in their communities.

The field research thus revealed that this quota system had extended even into the most remote areas of the Amazon to make women into '*regidoras*' who otherwise displayed very little feminist or political consciousness in the interviews. The only contact most of the *regidoras* had with 'Western women' were with nuns who had run schools or other literacy programs.

If there was any conflict between the first and third generation of human rights, it was not apparent, or it was resolved in favor of first generation rights. There was no mention by any government official that the adoption of a quota was not promoted due to the fact that Amazonian women had traditionally not held power. The quota was immediately introduced at the internationally customary 30%, with training workshops about women's rights—one of which I attended. At the workshop, held with frontal lectures, the somewhat helpless-looking 'rulers' were instructed about their new powers with no adaptation to tribal customs. Though the practices of the rule in remote Amazonian villages may well be adopted to fit local realities, the formal appointments paralleled international customs.

4.4 Violence against women

The issue of violence against women is somewhat of a late bloomer on the international stage. Thus, it is a good opportunity to at how domestic efforts were futile without international 'moral support'. It demonstrates the rising significance of world-regional bodies, such as the Inter-American Commission on Human Rights.

Margarita Sucari, congresswoman and chair of the Parliamentarian Caucus of Women, spearheaded the effort to modify the domestic violence law since 1988. The goal was to criminalize violence against women and provide victims with compensation. However, according to her, it took the Inter-American Commission on Human Rights' ruling in favor of Maria da Penha to put domestic violence on the agenda in Peru.

Mrs. Maria da Penha Maia Fernandes, the Center for Justice and International Law^{xi} (CEJIL), and the Latin American and Caribbean Committee for the Defense of Women's Rights (CLADEM) had filed a case against the government of Brazil drawing upon Articles 44 and 46 of the American Convention on Human Rights and Article 12 of the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women.

The petition argues that the Federative Republic of Brazil had condoned the domestic violence by her husband, including the attempted murder in 1983, which left Maria da Penha a paraplegic. The petition was granted by the Inter-American Commission on Human Rights, which is one of the two mechanisms of the Organization of American States set up for the protection of human rights in April 2001.^{xii}

The same year, the Peruvian government established the National Programme against Family Violence and Sexual Abuse. In 2002, the government adopted a law that makes local authorities responsible for policies around domestic violence. Interestingly, the law stipulates punishments not only for rape but also for spousal rape. Margarita Sucari cited that in 2009 alone, 126 women were murdered by their husbands or former husbands. World Health Organization (WHO) statistics show almost half of all women living in relationship have suffered violence through their partner. With issues bleeding into each other over time, the combating of domestic violence facilitated the emergence of violence against domestic workers as a national issue.

In January 2010, Anel Townsend, former Minister of Women's Affairs and Social Development and former Congresswoman, together with women leaders of different grassroots organizations of Peru, presented a demand against the Peruvian State at the Inter-American Commission of Human Rights of the OAS in Washington, DC, for violating the OAS Convention to eliminate all kind of violence against women (Belem do Para Convention) and the Inter-American Convention of Human Rights of the OAS.

Note that CEDAW had in the early 1990s written a *Draft Declaration on the Elimination of Violence against Women*, a document that included all extra- and intra-familial forms of violence against women, including domestic violence and spousal rape as one of the forms of violence against women in Article 2. This draft was adopted by the General Assembly in 1993.

Susana Pinilla, Presidential Advisor, former Minister of Labor Affairs, and former Minister of Women's Affairs and Social Development of Perú, pointed out that Peru was part of the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women since 1996. However, domestic violence had not been made a criminal offense in Peru until after the decision of the Inter-American Commission on Human Rights.

To take up the discussion of Anyul and Punzo (2001), Boyd (1998), and Stacy (2004), world-level agreements gained more impetus when taken up by world-level INGOs and NGOS. There were, indeed, many references in the interviews to the decision of the Inter-

American Commission on Human Rights and how the Brazilian government had been reprimanded. Though no comparable case was brought against Peru, it seemed that government officials were intent on preempting this by passing the appropriate legislation.

The laws against gender violence make a case for how the judgments of human rights instruments can linger on the international level and may need to be brought home by organizations on the world regional level.

5 Reproductive rights

Abortion is the key gender issue closest to being an example of being adapted, or ‘syncretized’, on a national level by the invention of the term ‘therapeutic abortion’. Note that CEDAW does not openly advocate the right to abort. Article 10 (Education) states that ‘Parties shall take all appropriate measures to ... (h) Access to specific educational information to help to ensure the health and well-being of families, including information and advice on family planning.’ Article 12 (Health Care) states that ‘Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning.’ As only the right to health is enshrined internationally, this provided the access road to pro-choice family planning.

Peru came under a great deal of scrutiny concerning its lack of reproductive rights both from governmental organizations, notably CEDAW, and from INGOs. Two cases

provide an interesting example of how INGOs and different UN covenants, conventions, and committees are mutually reinforcing. They provide a good example of the ‘boomerang effect’ (Keck and Sikkink 1998).

The first is the case of *Karen Noelia Llantoy Huamán v. Peru*.^{xiii} Three organizations had brought the case by Karen Noelia Llantoy Huamán in front of the Human Rights Committee, established under Article 28 of the International Covenant on Civil and Political Rights: A Peruvian NGO, DEMUS (Estudio para la Defensa de los Derechos de la Mujer), and two INGOs, CLADEM (Latin American and Caribbean Committee for the Defence of Women's Rights) and the Center for Reproductive Law and Policy.

On 16 August 2001, Ms. Amanda Gayoso, a social worker in the Peruvian association of social workers, advised a medical intervention to terminate the pregnancy of Ms. Huamán, whose child was not likely to survive due to serious physical or mental defects, ‘since its continuation would only prolong the distress and emotional instability of Karen and her family’. However, no intervention took place, owing to the refusal of the Health Ministry medical personnel, and Ms. Huamán was forced to carry the fetus to full-term. Under Article 119 in Peru, therapeutic abortion was permitted only when the pregnancy would lead to serious and permanent damage to the woman’s health. Ms. Huamán won the case before the Human Rights Committee in November 2005.

However, the government of Peru did not comply with paying reparations. The discussion in the CEDAW committee provides an interesting example of the interlocking

efforts of national world-regional and global governance organizations. The CEDAW committee then took this issue up and chastised the representative of Peru. Ms. Dairiam pointed out that 14% of abortions performed on young girls in Peru had lethal consequences. As the State party had ratified the Optional Protocol to the International Covenant on Civil and Political Rights, the failure to cooperate with the Human Rights Committee in *Llantoy Huamán v. Peru* 'struck her as extremely disrespectful'.^{xiv} She urged the government to seek a solution to the problem of abortion.^{xv} The Peruvian delegate, Mr. Chávez, replied to the comment:

He did not wish to give the impression that his Government was unwilling to cooperate with the Human Rights Committee. Nevertheless, there were a number of practical difficulties involved in implementing the Committee's decision in *Llantoy Huamán v. Peru*, particularly regarding reparation for damages. Under Article 119 of the Criminal Code, abortion was permitted only when it was the only way to save a pregnant woman's life or to avoid serious or permanent damage to her health.

However, that provision left room for interpretation, and should be further clarified at the legislative level. (ibid.)

In June of 2009, the Center for Reproductive Rights and the Center for the Promotion and Defense of Sexual and Reproductive Rights (the Peruvian partner organization) filed a human rights petition against Peru on behalf of L.C. (only the initials are given for privacy

reasons) before the United Nations Committee on the Elimination of Discrimination against Women.

In October 2011, the CEDAW committee ruled in favor of L.C. and mandated that Peru amend its law to allow women to obtain an abortion in cases of rape and sexual assault and ensure the availability of abortion services in those circumstances and when a woman's life or health is in danger.^{xvi} This reinforced the direction of the Human Rights Committee.

Susana Pinilla pointed out that international organizations sometimes opened an interpretative backdoor. The WHO had declared that the emergency contraceptive pill is not abortive, so the Ministry of Health and the 'Women's Ministry' opposed the Cardinal of the Catholic Church in an attempt to legalize the so-called 'morning after pill'.

Irma Ganoza, the Director of the NGO Michaela Bastidas, noted that the lack of progress made on this issue was due to the absence of a second generation of activists. This was the area with the staunchest resistance to implementation and the one most inclined to syncretization, that is, the adaption to local beliefs. While the goal of the various organizations was the legalization of abortion, they chose a stepwise approach by first only insisting that abortion be legal due to rape or sexual abuse. As abortion was already legal when the mother's life was endangered, the other goal was to make abortion actually accessible under these circumstances. It is worth noting that 'pro-choice' is not actually codified as a right internationally. The references to women's choice are vaguely cast as it opens up possibilities of national adaption.

6 Conclusions

Internationally defined gender rights are globalized in Peru by both state and non-state actors, such as international non-governmental organizations and trade unions. International norms have strong influence on the discourse and legislation around gender issues on a world-regional, national, and country-regional level, both in the capital and in remote regions.

In Lima, the capital, interviews with ministers, parliamentarians, and NGOs suggested that these different actors were well aware and savvy about the jurisdiction of different international organizations, as well as the content of the relevant non-discrimination conventions. They implemented them on a legal level, nationally reinforcing Frank et al.'s (1999) arguments that they serve as receptor sites. The primary route of influence of international norms was via the foreseen institutional routes. CEDAW was taken as the basis for the passing and refining of the National Equal Opportunity Act. Decisions of the bodies of the Organization of American States also had a marked impact on the national discourse and law regarding gender-based violence.

In the Amazonian region, the top-down approach continued on a regional-local level. The most significant development had been the introduction of a gender quota system. The quota system stemmed from the regional implementation of the National Equal Opportunity Plan into a regional National Equal Opportunity Act for Loreto. Women in tribes across the Amazon, who ten years ago had not been permitted to even partake in the communal meetings, were now 'regidoras'. These 'regidoras', or district leaders, were brought to the

regional capital to be educated about their rights and assert leadership positions in their communities. This is noteworthy, as it is evidence of world societal influences even in very remote regions regarding very tangible power structures.

In La Libertad, the role of unions was pronounced. As it is part of export processing zones, many national labor protection laws do not apply. Also, due to the high incidence of migrant workers, no traditional organizational structures exist. Unions were the chief organizational spine. Internationally linked unions claimed the implementation of non-discrimination conventions of the ILO. Historically, unions have not been one of the proponents of female equity. However, trade unions now actively campaign for gender equity at work, citing ILO conventions. They are also closely affiliated with the International Confederation of Free Trade Unions (ICFTU), which, in turn, is affiliated with the ILO. This was incidentally true for unions in both the capital and the export processing zone.

National and regional organizations draw on various human rights instruments when acting as plaintiffs for human rights. Organizationally, it is noteworthy, as rather than domestic NGOs appealing, most such cases are brought forth by a chain of national and regional NGOs linking up and world-regional organizations taking charge organizationally.

Women's rights that belong to the liberal tradition that emphasize equal opportunity with men rather than unique rights for women, such as reproductive choice, are clearly delineated in international agreements. Liberal women's rights that are clearly canonized in international agreements exert an effect both top-down through nation-state implementation

and bottom-up through trade unions or women's NGO chains.

This article chapter set-out to examine the glocalization of four gender issues in Peru to ascertain in how the degree of implementation differs by dimension: labor, political representation, violence against women, and reproductive rights.

Regarding labor issues, the ILO- conventions were referenced without solicitation. Equal pay for equal work was upheld in discourse and law. In addition, all the current ILO convention themes that are treated in more recent ILO conventions surfaced, such as care work (i.e., caring for children or the elderly).

Regarding questions of political representation, quotas in line with the standard interpretation of CEDAW were implemented, disregarding cultural traditions of normally excluding indigenous women from bodies of authority. Neither respondents nor legislative texts pointed out tensions between first generation universalistic human rights norms of gender equity and third generation human rights norms strengthening tribal or indigenous cultures. The individual women's rights superseded any collective, traditional rights without question.

Regarding violence, no one argued that it was endemic to the Peruvian culture, but rather pointed out the regional resolutions banning violence against women. World-regional agreements on a (Latin) American level complement global, world-level agreements. There was much cross-referencing between the different international conventions both on an international level and on a world-regional level.

Reproductive rights were still highly contested due to the position and strength of the Catholic Church in Peru. Vague international norms regarding the freedom of women to choose position and spacing of children are not interpreted in Peru as the right to choose to terminate a pregnancy. Even the officially recognized right to terminate when the life of the mother is in danger due to the pregnancy, though recognized by law as a 'therapeutic abortion', is not recognized in practice. Women's organizations try to close the gap between de jure and de facto recognition.

The more institutionalized a women's issue, the more isomorphic it becomes. The clear codification on the international level leads to the adoption of an identical provision on the national level without the bastardization of either the text or the spirit of the agreement in even very remote regions.

Another noteworthy finding is the pronounced role that regional human rights instruments of the OAS play a key interlocutor role, in particular, in respect to violence against women. Though the theme had emerged on the international level in the early 1990s, it took the OAS body rulings to put violence against women on the agenda for Latin America around the turn of the millennium. More research is needed in comparable countries to ascertain the generalizability of these findings regarding the glocalization of gender issues in times of global governance.

References

- Abu Sharkh, M. (2002). *History and results of labor standard initiatives: an event history and panel analysis of the ratification patterns, and effects, of the International Labor Organization's First Child Labor Convention*. [Ph.D. Dissertation]. Berlin: Freie Universität Berlin.
- Abu Sharkh, M. (2008). *Cross-coupling of international and national law regarding labor market discrimination against women, 1958 to 2005*. [Working paper]. Stanford: Center on Democracy, Development, and the Rule of Law. [Presented at the American Sociological Association Meeting, Aug. 1-4, 2008].
- Anyul, M. P., and Punzo, L. F. (2001). *Mexico beyond NAFTA: perspectives for the European debate*. London and New York: Routledge.
- Boli, J. (1987). *Human rights or state expansion? Cross-national definitions of constitutional rights, 1870-1970*. London: Sage.
- Boyd, G. (ed.). (1998). *The struggle for world markets: competition and cooperation between NAFTA and the European Union*. Cheltenham and Northampton, MA: Edward Elgar.
- Bradley, K., and Ramirez, F. O. (1996). 'World polity and gender parity: women's share of higher education, 1965-1985'. *Research in Sociology of Education and Socialization*, 11: 63-91.

- Elwert, G. (1997). 'Schmückendes Gerede und reale Entwicklungsbedingungen - Über soziokulturelle Bedingungen der Entwicklung' in M. Schulz (ed.), *Entwicklung: Die Perspektive der Entwicklungssoziologie*. Opladen: Westdeutscher Verlag, 261-90.
- Fearon, J. (2003). *Ethnic structure and cultural diversity around the world: a cross-national data set on ethnic groups*. California: Stanford University.
- Finnemore, M. (1996). 'Norms, culture and world politics: insights from sociology's institutionalism'. *International Organization*, 50: 325-47.
- Flick, U. (2003). 'Triangulation in der qualitativen Forschung', in U. Flick, E. von Kardorff, and I. Steinke (eds.), *Qualitative Forschung. Ein Handbuch*, vol. Rowohlt's Enzyklopedie. Reinbek bei Hamburg: Rowohlt, 309-18.
- Flick, U., von Kardorff, E., and Steinke, I. (2003). 'Was ist qualitative Forschung?' in U. Flick, E. von Kardorff, and I. Steinke (eds.), *Qualitative Forschung. Ein Handbuch*, vol. Rowohlt's Enzyklopedie. Reinbek bei Hamburg: Rowohlt, 1-29.
- Frank, D., Hironaka, A., and Schofer, E. (2000). 'The nation-state and the environment over the twentieth century'. *American Sociological Review*, 65: 127-49.
- Hafner-Burton, E. M., and Tsutsui, K. (2007). 'Justice lost! The failure of international human rights law to matter where needed most'. *Journal of Peace Research*, 44(4): 407-25.
- Keck, M. E., and Sikkink, K. (1998). *Activists beyond borders: advocacy networks in international politics*. New York: Cornell University Press.

- Leisering, L., Buhr, P., and Traiser-Diop, U. (2006). *Grundsicherung als globale Herausforderung [Basic income as a global challenge]. Soziale Grundsicherungssysteme in Entwicklungs- und Übergangsgesellschaften—ein weltweiter Survey*. Bielefeld: Transcript.
- Meyer, J. W. (1987). 'The world polity and the authority of the nation state', in G. Thomas, J. Boli, J. W. Meyer, and F. Ramirez (eds.), *Institutional structure. Constituting state, society and the individual*. Newbury Park et al., 41-70.
- Meyer, J. W., Boli, J., Thomas, G. and Ramirez, F. (1997). 'World society and the nation state.' *American Journal of Sociology*, 103: 144-81.
- Meyer, J. W., Frank, D. J., Hironaka, A., Schofer, E., and Tuma, N. (1997a). 'The structuring of a world environmental regime, 1870-1990'. *International Organization*, 51: 623-51.
- Meyer, J. W., and Ramirez, F. O. (1998). 'Dynamics of citizenship development and the political incorporation of women: a global institutionalization research agenda', in C. L. McNeely (ed.), *Public rights, public rules. Constituting citizens in the world polity and National Policy*. New York: Garland, 59-80.
- Meyer, J. W., Ramirez, F. O., and Soysal, Y. N. (1992). 'World expansion of mass education, 1870-1980'. *Sociology of Education*, 65: 128-49.
- Molina, N. (1998). 'Women's struggle for equality and citizenship in Chile', in G. Lycklama á Nijetholt, V. Vargas, and S. Wieringa (eds.), *Women's social movements in Europe, Latin America and the Caribbean*. New York: Garland, 127-41.

- Paxton, P., Hughes, M., and Green, J. (2006). 'The international women's movement and women's political representation, 1893-2003'. *American Sociological Review*, 71: 898-920.
- Ramirez, F. O. (2000). 'Progress, justice, and gender equity: world models and cross-national trends', in W. Powell and D. Jones (eds.), *Bending the bars of the iron cage: institutional dynamics and processes*. Chicago, IL: Chicago University.
- Ramirez, F. O., Soysal, Y., and Shanahan, S. (1997). 'The changing logic of political citizenship: cross-national acquisition of women's suffrage rights, 1890-1990'. *American Sociological Review*, 62: 735-45.
- Robertson, R. (1992). *Globalization: social theory and global culture*. London: Sage.
- Stacy, H. (2009). *Human rights for the 21st century*. Stanford: Stanford.
- Thomas, G. M., and Lauderdale, P. (1988). 'State authority and national welfare programs in the world system context'. *Sociological Forum*, 3: 383-99.
- Waylen, G. (1998). 'Women's activism in Chile', in N. Charles and H. Hintjens (eds.), *Gender, ethnicity and political ideologies*. London: Routledge, 146-67.
- Weltbank. (1995). *Weltentwicklungsbericht 1995. Arbeitnehmer im weltweiten Integrationsprozess*. Bonn: UNO-Verlag.
- Wobbe, T. (2000). *Weltgesellschaft*. Bielefeld, Germany: Universitat Bielefeld.
- Wotipka, C. M., and Ramirez, F. O. (2008). 'World society and human rights: an event history analysis of the Convention on the Elimination of All Forms of Discrimination against

Women’, in B. Simmons, F. Dobbin, and G. Garrett (eds.), *The global diffusion of markets and democracy*. Cambridge, Cambridge University Press, 303-43.

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ii Theoretically, this argument builds on the open systems perspective (Scott 1998) that argues that structures of organizations often do not arise out of functional necessity but rather due to the pressures from the ‘organizational fields’ that constitute the frame of reference for these organizations (DiMaggio and Powell 1991: 9).

iii (<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N04/301/07/PDF/N0430107.pdf?OpenElement>, visited October 14, 2010)

iv (<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N04/301/07/PDF/N0430107.pdf?OpenElement>, visited October 14, 2010)

v See WHO (2005), the Resolution A/55/2 of The United Nations Millennium Declaration September 2000. (www.un.org/millennium/declaration/ares5552e.htm), ‘Declaration on the elimination of violence against women’ (UN General Assembly resolution, document A/RES/48/104, UN, New York, 1993). The Fourth World Conference on Women, Beijing, China 1995 (document A/CONF.177/20, UN, New York, 1995).

vi http://www.ipu.org/PDF/publications/cedaw_en.pdf.

vii (<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N07/214/57/PDF/N0721457.pdf?OpenElement> , visited November 1, 2011, Page 11)

viii (http://www.ipu.org/parline-e/reports/2251_arc.htm, visited Nov. 14, 2011.)

ix (http://www.ipu.org/parline-e/reports/2251_A.htm, visited Nov. 14, 2011.)

x (Ordenanza Regional Aprobacion Plan Regional de Igualdad de Oportunidades entre mujeres y varones de Loreto 2010_2015)

xi The institutional mission of CEJIL is to contribute to the full enjoyment of human rights in the Americas through the effective use of the tools of the Inter-American System and international human rights law.

xii (<http://www.cidh.org/women/brazil12.051.htm>, visited October 20, 2011)

xiii Communication No. 1153/2003, U.N. Doc. CCPR/C/85/D/1153/2003 (2005)

xiv (<http://www.un.org/womenwatch/daw/cedaw/37sess.htm>)

xv (ibid)

xvi ([http://reproductiverights.org/sites/crr.civicactions.net/files/documents/CEDAW-C-50-D-22-2009%20English%20\(clean%20copy\).pdf](http://reproductiverights.org/sites/crr.civicactions.net/files/documents/CEDAW-C-50-D-22-2009%20English%20(clean%20copy).pdf), P. 20.