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45 years of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Challenges for Global Governance Regarding Gender Inequality

45 anos da Convenção Sobre a Eliminação de Todas as Formas de Discriminação Contra a Mulher (CEDAW) e os Desafios para a Governança Global Quando à Desigualdade de Gênero

45 años de la Convención sobre la Eliminación de Todas las Formas de Discriminación contra la Mujer (CEDAW) y los Desafíos para la Gobernanza Global ante la Desigualdad de Género

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Eixo Temático 2: Constituição, Instituições e Democracia no Brasil

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Abstract

History confirms that there have always been women who resisted the effects of patriarchy; however, feminist movements gained greater strength and formal adherence by States especially from the 1970s onward. From the perspective of global initiatives, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) stands out—a 1979 treaty that is part of the universal human rights system. Nevertheless, despite this initiative and others that followed, the context of violence, male domination, and the invisibility of women in public spheres of power persists. Thus, the question arises: What causes the patriarchal structure to remain strong worldwide 45 years after the advent of CEDAW and 76 years after the Universal Declaration of Human Rights? This is the central issue the article seeks to address, through an analysis of the international patriarchal context in light of cosmopolitan feminism. This model rejects the Eurocentric, liberal, and falsely universalized imposition regarding the understanding of human rights, proposing instead their reinterpretation from a perspective that considers cultural differences among peoples and the role of multi-level governance in a globalized world. Structural changes are necessary, involving both state and non-state actors, as there is still, in general, an invisibility of this agenda within cosmopolitan political discourse. The article seeks to discuss the hierarchy that structures international politics and prevents the feminist struggle from advancing and producing more concrete effects.

Keywords: CEDAW; global governance; gender inequality.

Resumo

A história confirma que sempre houve mulheres que lutaram contra os efeitos do patriarcado, porém movimentos feministas ganharam mais força e a adesão formal de Estados sobretudo a partir da década de 1970. Do ponto de vista das iniciativas globais, destaca-se a Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), um tratado de 1979 que faz parte do sistema universal de Direitos Humanos. Entretanto, apesar desta iniciativa e de outras que se seguiram, a conjuntura de violência, de dominação masculina e da invisibilidade das mulheres nos espaços públicos de poder permanece. Assim, pergunta-se: O que faz com que a estrutura patriarcal permaneça forte em todo o mundo 45 anos após o advento da CEDAW e 76 anos após a Declaração Universal dos Direitos Humanos? É o que o artigo busca discutir, a partir de uma análise da conjuntura patriarcal internacional à luz do feminismo cosmopolita. Esse modelo rejeita a imposição eurocêntrica, liberal e falsamente universalizada sobre a compreensão acerca dos direitos humanos, buscando a sua reinterpretação a partir de uma perspectiva que considere as diferenças culturais entre os povos e o papel da multi-level governance no mundo globalizado. Mudanças estruturais são necessárias, envolvendo atores estatais e não estatais, uma vez que ainda se verifica, de um modo geral, a invisibilidade dessa pauta na agenda política cosmopolita. A proposta busca discutir a hierarquia que estrutura a política internacional e impede que a luta feminista avance e tenha efeitos mais concretos.

Palavras-chave: CEDAW; governança global; desigualdade de gênero.

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Resumen

La historia confirma que siempre ha habido mujeres que resistieron los efectos del patriarcado; sin embargo, los movimientos feministas cobraron mayor fuerza y obtuvieron la adhesión formal de los Estados principalmente a partir de la década de 1970. Desde el punto de vista de las iniciativas globales, destaca la Convención sobre la Eliminación de Todas las Formas de Discriminación contra la Mujer (CEDAW), un tratado de 1979 que forma parte del sistema universal de los Derechos Humanos. No obstante, a pesar de esta iniciativa y de otras posteriores, persiste un contexto de violencia, dominación masculina e invisibilidad de las mujeres en los espacios públicos de poder. Así, cabe preguntarse: ¿Qué hace que la estructura patriarcal permanezca tan sólida en todo el mundo 45 años después del surgimiento de la CEDAW y 76 años después de la Declaración Universal de los Derechos Humanos? Esta es la cuestión que el artículo se propone discutir, a partir de un análisis de la coyuntura patriarcal internacional a la luz del feminismo cosmopolita. Este modelo rechaza la imposición eurocéntrica, liberal y falsamente universalizada sobre la comprensión de los derechos humanos, proponiendo su reinterpretación desde una perspectiva que tenga en cuenta las diferencias culturales entre los pueblos y el papel de la gobernanza multinivel en el mundo globalizado. Son necesarias transformaciones estructurales que involucren a actores estatales y no estatales, ya que aún se constata, en general, la invisibilidad de esta agenda en el escenario político cosmopolita. La propuesta busca debatir la jerarquía que estructura la política internacional y que impide que la lucha feminista avance y tenga efectos más concretos.

Palabras clave: *CEDAW; gobernanza global; desigualdad de género.*

1 Introduction

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) is a treaty that forms part of the universal human rights system, led by the United Nations (UN), created in 1979. It is a treaty designed to promote women's rights, especially with regard to combating gender-based discrimination.

The CEDAW text establishes the creation of a specialized Committee to monitor the success of states in implementing the norms and policies proposed in the Convention. It should be noted that the Committee's role is limited by the difficulties imposed by the states themselves, which are not always able to effectively implement the Convention. Regardless of this difficulty, the Committee's work is extremely important, as it puts pressure on states to combat discrimination against women.

Generally speaking, it can be said that this Committee has three main functions: a) to monitor states' compliance with CEDAW; b) to receive complaints of discrimination against women practiced or permitted by member states; c) to make general recommendations to member states, helping them to interpret the rules and principles laid down in the Convention.

However, despite this initiative and others that followed, the situation of violence, male domination, and the invisibility of women in public spaces of power remains. The question therefore arises: What causes the patriarchal structure to remain strong throughout the world 45 years after the advent of CEDAW and 76 years after the Universal Declaration of Human Rights?

This is what the article seeks to discuss, based on an analysis of the international patriarchal situation in the light of cosmopolitan feminism, a model that rejects the Eurocentric, liberal and falsely universalized imposition on the understanding of human rights, seeking to reinterpret them from a perspective that considers the cultural differences between peoples. Structural changes are needed, involving both state and non-state actors, since this issue is still generally invisible on the global political agenda. Therefore, this article seeks to discuss the positive points of the advent of CEDAW and its obstacles, mainly stemming from the patriarchy that underpins international politics and prevents the feminist struggle from advancing and having more concrete effects.

2 Historical context and importance of cedaw

The quest for equal rights for men and women is not something recent, quite the contrary. Historically, there have always been people (almost always women) who have fought against the effects of a patriarchal society, which brings countless benefits and privileges to men, to the detriment of unfair, unequal, and discriminatory treatment of women. What has changed over time is the type of claim, the strategy adopted as a way of acquiring equal treatment and, above all, the results achieved. According to De Tilio (2012, p.72), it was from the end of the 18th century that historical records of these demands became more frequent:

> Among the first are the 1791 text by Olympe de Gouges, the Declaration of the Rights of Women and of the Citizen, (written in the context of the French Revolution and which demanded the construction of a less unequal society and the observance of the same rights for men and women) and the 1792 text by Mary Wollstonecraft (A defense of the rights of women), which also demanded equal rights for women since they were compulsorily oppressed by men.

Unfortunately, these two documents had no immediate practical effect, given the patriarchy that still pervaded the political landscape of that century. It was only at the end of the 19th century and the beginning of the 20th century that the fight for equality between men and women began to become more effective in terms of legislative changes, with what has been called the "first wave" of the feminist movement.

First of all, the UN Charter of 1945 and, above all, the Universal Declaration of Human Rights (UDHR) of 1948 should be highlighted. Although they are not specific legislative documents for women, they were documents that established equal treatment for all individuals, which ended up serving as a legal foundation for the fight to end unequal treatment between men and women. In the case of the UDHR, for example, article 16 establishes equal rights in relation to some aspects of the family, by stating that "... men and women of full age, without any restriction as to race, nationality or religion, have the right to marry and to found a family, enjoying equal rights in respect of marriage, its duration and its dissolution".

In 1946, the UN Economic and Social Council created the Commission on the Status of Women (CSW) with the aim of promoting women's political, economic, civil, social, and educational rights. This Commission significantly increased the visibility of women's struggle for equality with men and protection of their fundamental rights. Between 1949 and 1962, the Commission drew up a series of treaties for women, such as the 1952 Convention on the Political Rights of Women; the 1957 Convention on the Nationality of Married Women; and the 1962 Convention on Consent to Marriage, Minimum Age and Registration of Marriages. In 1967, the Commission drew up the Declaration on the Elimination of Discrimination against Women, which established various standards encouraging equal treatment between men and women, but which, because it was only a Declaration, had no binding force on the Member States. (Vicente, 2016)

It should be noted that these initiatives are the fruit of feminist movements that were gaining more and more voice and strength in the second half of the 20th century. A major milestone was the publication of Simone de Beauvoir's *The Second Sex* (2009), which analyzes the founding bases that maintain the triumph of patriarchy, such as the act of relegating women to activities linked to filiation and caring for the home, making her a servant of the family structure, commanded by the man. According to the author (2009, p. 119): "There is no more important ideological revolution than the one that replaces uterine filiation with agnation; from then on, the mother is relegated to the role of nanny, of servant, and the sovereignty of the father is exalted: he is the one who holds the rights and transmits them".

In addition to the author, a number of women, including activists, philosophers and scientists, have begun to question the roots of patriarchy and invoke that the "personal is political", in order to draw attention to the fact that social practices that take place in the private sphere are also reflected in gender discrimination in the public sphere.

In this context of public pressure, during the 1970s, international efforts to guarantee effective equality between men and women were greatly expanded, with the UN holding the World Conference on the International Women's Year in 1975. In addition, the General Assembly proclaimed the so-called United Nations Decade for Women, which ran from 1976 to 1985, with the themes of Equality, Development and Peace. It was in this favorable context that the General Assembly approved the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) on December 18, 1979, by Resolution A-34-180, with binding legal force for all those who ratified its founding treaty. Initially, sixty-four countries signed the text of the treaty, which entered into force on September 3, 1981, following the deposit of the twentieth instrument of ratification[1]. Brazil ratified CEDAW, with reservations, in February 1984, and the treaty entered into force in Brazil in March of the same year. In 1994, these reservations were withdrawn, and in 2002 Decree No. 4.377 revoked the previous decree of 1984 and promulgated the Convention again, this time without the reservations that had already been withdrawn.

CEDAW has proved to be of great importance for the promotion and defense of women's rights, as it places state obligations within a system of rules and principles aimed at consolidating gender equality and combating all forms of violence against women, including in relation to private entities, i.e. the requirement not to discriminate against women is not only a state obligation, but also one of the family, the community, companies and even religious institutions. The principle of non-discrimination requires states to ensure that their government policies and programs do not disadvantage women in any way, whether because of their biological, physical, or psychological attributes, or for any social or cultural reason.

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[1] One hundred and eighty-nine countries are currently member states of CEDAW. Only six countries have not even signed the Convention, including Iran, Sudan, and Somalia. The United States is a signatory, but has not yet deposited its instrument of ratification, and is therefore not considered a Member State of CEDAW. Cf. https://indicators.ohchr.org/ . Accessed: December 28, 2022.

Besides that, the Convention establishes the creation of the Committee on the Elimination of Discrimination against Women, which acts as a supervisory body for states in relation to compliance with CEDAW. This can be seen in the first part of Article 17 (1979, p.7):

> In order to examine the progress made in the implementation of this Convention, a Committee on the Elimination of Discrimination against Women (hereinafter referred to as the Committee) shall be established, composed, at the time of the entry into force of the Convention, of eighteen and, after its ratification or accession by the thirty-fifth State Party, of twenty-three experts of high moral standing and competence in the field covered by the Convention[2] . The experts will be elected by the States Parties from among their nationals and will exercise their functions in a personal capacity; an equitable geographical distribution and representation of the different forms of civilization as well as the main legal systems will be taken into account.

According to the Committee's rules of operation, States Parties must submit reports to the UN Secretary-General every four years, informing him of the legislative, administrative, and judicial measures that have been adopted in order to comply with the provisions of the Convention[3]. This means that the main purpose of these reports is to enable the Committee to verify whether or not States Parties are complying with the obligations set out in CEDAW. The reports are also important so that the states themselves can make a concrete analysis of the real situation of women in the country and identify the points where progress has been made and those that require changes and/or reforms in order for CEDAW to be fully complied with. It is for this reason that states must indicate in their reports any difficulties that have affected or hindered compliance with the clauses set out in CEDAW, and, of course, the measures taken to remedy these difficulties. (Kyrillos; Stelzer, 2021)

Civil society, through non-governmental organizations, also participates in this monitoring process, sending alternative reports, the so-called shadow reports, which act as a counterpoint to those sent by the states, critically revealing the real situation of women's rights in that country (Ramos, 2021).

The Committee's analysis of these reports takes place in a public meeting, in the presence of representatives of the state that submitted the report. This is a way of ensuring that the relationship between the Committee and the States will be fundamentally dialogical, centered on the exchange of information, experiences, ideas, and suggestions, in a joint effort to promote the full implementation of CEDAW[4]. At the end of this dialog, the Committee issues its final considerations, which were previously discussed and elaborated in a private session between the experts. These considerations include the positive aspects, the main points of concern, suggestions and recommendations that should be implemented by States so that the provisions of CEDAW are fully complied with. It should be reiterated that these recommendations are not binding on States.

The presentation of these reports (and their consideration by the Committee) is extremely important, as it gives voice to women's perspectives, as well as their understandings and expectations. The reports and evaluations reflect the broad interests of women representing different cultures, contributing, at least in theory, to the establishment of universal human rights standards (Vicente, 2016).

During the discussions for the drafting of CEDAW, back in the 1970s, the possibility of creating a mechanism that would allow women to denounce States Parties that failed to comply with the Convention was raised. Despite the importance of the issue, the idea did not go ahead and was rejected on more than one occasion.

However, the dawn of the 1990s brought a strengthening of this demand, with the expansion of women's human rights groups. As early as 1991, there was a need to draw up an Optional Protocol to CEDAW, allowing the CEDAW Committee to receive - and investigate - reports of violations of women's human rights under the Convention

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2 Unlike other UN bodies, this committee has mostly been made up of women with backgrounds in different areas, since many of these experts are or have been lawyers, judges, psychologists, economists, sociologists and teachers Cf. SOUZA, Mércia Cardoso de. O Brasil e o Comitê para a Eliminação da Discriminação das Mulheres da ONU: Reflexões sobre as 29ª, 39ª e 51ª Sessões do Comitê da CEDAW. *In*: Encontro Nacional do CONPEDI. 21., 2012, Florianópolis. **Anais** [...]. Florianópolis: Boiteux, 2012, v. 1, p. 6714-6744.

3 If a state party fails to submit a report for a given period, it will be encouraged by the Committee to consolidate overdue reports in order to remedy these pending issues. In 2002, for example, Brazil sent its first five consolidated reports. Cf. KYRILLOS, Gabriela M.; STELZER, Joana. Uma análise interseccional de gênero e raça sobre as medidas adotadas em prol da eficácia da CEDAW no Brasil. **Cadernos Pagu**, Florianópolis, n. 61, p. 3, 2021.

4 The evaluation of the reports takes place in an environment free of any confrontation with the country in question. Thus, while on the one hand it identifies problems in complying with CEDAW clauses, on the other hand it always points out the positive points, encouraging the country to continue improving its implementation of CEDAW. For this reason, the Committee never declares a country to be in violation of the Convention, but only points out the problems that need to be corrected. Cf. GUIA PARA A CEDAW. Comissão para a Cidadania e Igualdade de Gênero. Lisboa, 2012. Available from: https://www.cig.gov.pt/wp-content/uploads/2018/01/Guia-CEDAW-_-Protocolo-Opcional_Cig.pdf. Accessed on: January 2, 2023.

(Guide, 2012). After almost ten years of discussions and deliberations between the States Parties, on October 6, 1999, the UN General Assembly adopted the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women[5] .

The Protocol entered into force on December 22, 2000, exactly three months after ratification by the tenth Member State, under the terms of its sixteenth article (Vicente, 2016). Thus, from its entry into force, the CEDAW Protocol ensured the right to petition for victims of violations of the rights guaranteed in the Convention. Since the petition is addressed to the CEDAW Committee, it can be said that the latter now has a new competence, which is to "receive and consider communications submitted by individuals or groups of individuals (...) who are under its jurisdiction and who are victims of violations of any of the rights established in the Convention". (Ramos, 2021, p.430)[6] . If necessary, the Optional Protocol to CEDAW allows the Committee to appoint a team to carry out *on-site* investigations (Pimentel, 2006). As defined by Flavia Piovesan (2015, p.368), the importance of the CEDAW Protocol lies in the fact that it "... revitalizes and reinvigorates the international grammar of protection of women's human rights, constituting a real guarantee aimed at ensuring the full and equal exercise of women's human rights and their non-discrimination".

The receipt of these petitions has well-defined rules throughout the articles of the Protocol. In this sense, it is established that States Parties that have opted to accede to the Protocol recognize the competence of the CEDAW Committee to examine any communications submitted to it (art. 1), by individuals or groups of individuals, provided that they are nationals of the States Parties that have acceded to the Protocol, whenever there is a suspicion that this State Party has violated any of the rights established in the Convention (art. 2). It should also be reiterated that Article 3 of the Protocol states that communications will only be received if the State complained of is a State Party to the Protocol.

Another condition considered indispensable for the CEDAW Committee to be able to receive communications of violations of women's rights is that there are no domestic remedies left in the legal system of each Member State, as established in Article 4 of the Optional Protocol: "The Committee shall not consider the communication unless it has recognized that all remedies within the domestic jurisdiction have been exhausted or that the use of such remedies would be delayed beyond reasonable doubt as to producing effective relief." It should be noted, however, that the above-mentioned article recognizes exceptions to the need to exhaust domestic remedies, since the Committee:

> […] may waive this requirement if the processing of domestic remedies is unjustifiably prolonged or is unlikely to result in an effective solution.25 It is not necessary to exhaust internal procedures that require an unreasonable amount of time to complete or that are characterized by an unjustified delay. The decision that the application of domestic remedies is being prolonged without justification depends on the nature of the alleged violation. In line with established regional and international jurisprudence, paragraph 1 also suspends the requirement for domestic remedies if those available are not "effective" (Sullivan, 2002, p. 40).

With regard to the investigation, it can be said that, once received by the Committee, the communications are analyzed in closed meetings. Subsequently, the considerations and recommendations made by the Committee are transmitted to the States complained against, which must submit a written response within six months. When necessary, with the consent of the State Party involved, the investigation may include an on-site visit to its territory. It should be reiterated that all stages of the inquiry are confidential and must count on the full cooperation of the State Party.

Finally, the Committee has the task of preparing general recommendations to State Parties, helping them to interpret the rights and principles set out in the Convention. There are currently thirty-nine recommendations, which deal with the various issues described in CEDAW. Of particular note are General Recommendations No. 19

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[5] It is important to note that the Protocol, as its name implies, is optional, i.e., the States Parties have the full capacity to adhere to its text or not. Brazil ratified the Protocol in July 2002.

[6] To date, Brazil has only had one complaint lodged with the Committee. This is the case of the death of Alyne Pimentel, a victim of poor medical care in the state of Rio de Janeiro. In 2011, the Committee decided that the Brazilian government had violated articles of CEDAW, recommending the adoption of a series of measures, some of which were complied with, others not. For example, compensation was paid to the victim's mother, but no doctor was punished for any shortcomings in care. Cf. RAMOS, André de Carvalho. **Curso de Direitos Humanos**. Saraiva: São Paulo, 2021, p. 432.

(RG19) of 1992 and No. 35 (RG35) of 2017, which deal with the issue of gender-based violence, something that the CEDAW text does not address directly[7] .

In this sense, RG19 stated that discrimination against women, as defined in Article 1 of CEDAW, also includes gender-based violence:

> Article 1 of the Convention defines discrimination against women. The definition includes gender-based violence as violence that is directed against women because they are women or that disproportionately affects women. This violence includes acts that inflict physical, mental, or sexual harm or suffering, threats to commit such acts, coercion, and other forms of deprivation of liberty. Gender-based violence can contravene specific provisions of the Convention, regardless of whether they expressly mention violence.

In 2017, the CEDAW Committee drafted RG35, which recognizes the numerous advances made in combating violence against women, but believes it is necessary to update RG19 and strengthen the guidelines given to States Parties in order to accelerate the elimination of gender-based violence against women[8].

An especially important theme addressed by RG35 is the cross-cutting nature of the issue of violence against women. Factors such as ethnicity, race, color, socioeconomic status, religion, marital status, age, health, among many others, lead to different forms of discrimination and, consequently, different forms of gender-based violence, requiring appropriate legal and political responses: "...If women experience discrimination rooted in their sex and/or gender and this intersects with other aspects of their identity or experiences and results in a denial of human rights, it is possible and should be addressed through CEDAW." (Kyrillos; Stelzer, 2021, p. 7).

Another point addressed in this General Recommendation is the fact that gender-based violence against women occurs in all environments where human interaction takes place, be they public, private, or even digital, as in the case of social networks, which are quite common today. RG35 also warns in its text that this gender-based violence against women "... can result from acts or omissions by state or non-state actors, acting territorially or extraterritorially, including extraterritorial military action by states, individually or as members of international or intergovernmental organizations or coalitions".

The responsibilities and obligations of States Parties to comply with CEDAW were also emphasized in RG35. This obligation would be of an immediate nature, i.e., economic, cultural, or religious grounds cannot serve as a justification for delaying or failing to comply with these measures to combat discrimination against women, which includes, as we have seen, the issue of gender-based violence. It also points out that the Member State is responsible both for the actions of its own agents and for the actions of non-state actors. In the first case, the RG35 states that the State Party's responsibility includes the acts and omissions of officials from all spheres of government, and that the State must also have an effective and accessible legal framework of legal services to deal with all forms of gender-based violence against women committed by State agents, both on its territory and extraterritorially.

With regard to the responsibility of States Parties for the acts and omissions of non-state actors, RG35 initially includes those that can be attributed to States by virtue of the country's domestic legislation (for example, private bodies that provide public services in health or education). In addition, States Parties have the so-called due diligence obligation, which reaffirms the obligation of States to take all possible measures to investigate, prosecute, punish, or even make financial reparation for the acts or omissions of non-state actors that could be considered examples of gender-based violence against women. This obliges states to "...adopt diverse measures (...), including through laws, institutions and a system put in place to deal with this type of violence, ensuring that it works effectively in practice and is diligently supported and applied by all state agents and organs".

However, despite all these advances, according to the Committee itself "gender-based violence against women, whether committed by states, intergovernmental organizations or non-state actors, including individuals and armed groups, remains widespread in all countries and with high levels of impunity". This violence is manifested in numerous ways, whether mediated by technology or not, in both the private and public spheres. Considering the globalized world, it is a problem that transcends national borders.

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7 In fact, the inclusion of gender-based violence as a form of discrimination against women, changing the interpretation that had been given to Article 1 of CEDAW until then, first appeared in General Recommendation 12 in 1989. But it was in General Recommendation No. 19 that the issue was detailed and effectively established an innovative approach to protecting women. Cf. CONSELHO NACIONAL DE JUSTIÇA. **Recomendação Geral n. 35 sobre violência de gênero contra as mulheres do Comitê para a Eliminação de Todas as Formas de Discriminação contra a Mulher (CEDAW).** Brasília, DF: CNJ, 2019.

8 One of the first changes brought about by RG35 is the nomenclature itself. The term 'gender-based violence' is replaced by 'gender-based violence against women', making explicit the reasons for the violence and emphasizing who suffers its main impacts.

The question therefore arises: What causes the patriarchal structure to remain strong throughout the world 45 years after the advent of CEDAW and 76 years after the Universal Declaration of Human Rights? This is what will be discussed next.

3 Looking at international organizations: where are the women?

Social power can be conceptualized from a functional point of view as the ability, exercised by certain social agents or operated in a structural way, to control the actions of others (Fricker, 2023, p. 33). This structural perspective implies an understanding of how power is constructed, organized, and disposed of in society, with the aim of establishing a stable order of things, which is supposed to be "neutral".

This apparent "neutrality" can be seen in various social structures that normalize domination and hierarchy between human beings, such as racism and patriarchy. In this article, due to the need for an epistemological cut, we will focus on the latter, although we recognize the inherent intersectionality of the two themes and the inescapable historical connection between them.

As far as the patriarchal structure is concerned, the social power conceptualized above can be seen in the process of "naturalization" of sexual roles, which are assigned and taught from the beginning of children's socialization and which have repercussions in adult life, in the imposition of who is responsible for tasks in the home and in the notion of how motherhood should be exercised, for example. In other words, we are talking about the "naturalization" of a conventional ideal of femininity and masculinity, which translates into this situation that leads many women to conform to the traditional roles assigned to them.

It should be noted that this structure underpins the societies of the most diverse cultures, both in the West and in the East, with variations depending on the country, in terms of the degree of female subordination and the actions of the state to repress (or reinforce) these practices. It is therefore possible to say that this is a global problem.

Pierre Bourdieu (2012, p. 18) states that "the androcentric vision imposes itself as neutral and has no need to be enunciated in discourses aimed at legitimizing it. The social order functions as an immense symbolic machine that tends to ratify the male domination on which it is based". This symbolic machine is seen in the delimitation of roles and stereotypes for men and women: the man is the active, protective, and self-declared figure, who commands; while the woman is predominantly fragile, delicate, and passive, who therefore obeys.

In this context, it is understood that women have historically and culturally been destined for caring roles, with the female figure attributed the image of reproducer by vocation, the duty to maintain the balance of family relationships and the substantial execution of domestic functions, but scarcely for the activities of rhetoric, leadership, decision-making and protection. Thus, the idea that women were "naturally" destined for the private world and family care became the triumph of patriarchy (Beauvoir, 2009, p. 119).

As far as motherhood is concerned, the roles are delimited with an imbalance of functions: girls are taught from early childhood to look after dolls as offspring, while boys are encouraged to engage in movement activities, sports, and competitions. Boys play at being heroes who win and save the world, while girls are the princesses stuck waiting for Prince Charming. In this way, women develop as human beings from the perspective of a traditional and very specific family nucleus, in which the man is the provider, and she is responsible for looking after the home, the husband, the children and the elderly, and this model is perpetuated over several generations.

This culturally rooted order guarantees a sexual division that separates and hierarchizes people and the continuity, even, of the sexual exploitation of women in the workplace, sustained under the aegis of a neoliberal capitalist system, in which the work done inside the home is not only unpaid, but invisible, silent and degenerating - and so necessary for the maintenance of the whole (Hooks, 2019, p.200).

Although patriarchy has been eminently combated by the struggles of the feminist movement, the structure that sustains the sexual division of labor has never been sufficiently destabilized. In other words, although many women throughout history have not shown themselves to be alienated from the exploitative context in which they find themselves, the duality present in what is feminine and masculine contributes to the magnitude of the functionalism of relations between the genders, where the point of intersection is demonstrated in the preservation of the family arrangement and, consequently, the configuration of the social nuclei themselves (Barman, 2005, p.20-21).

In the meantime, the private sphere is inexorably reflected in the public sphere in terms of the sexual division of labor and the reproduction of sexual roles: the stereotype of women's fragility, passivity, lack of competitiveness

and virility - elements that are contrary to what is expected in public office - was one of the factors that justified the denial of women's right to vote for many years[9] and still corroborates the low level of female participation in spaces of power. This is because, almost a century after gaining political rights, women still suffer various obstacles such as the lack of encouragement from political parties to promote their candidacies for elected office and, when elected, they endure violence and discrimination in the exercise of their functions on the grounds of their gender (Biroli; Miguel, 2014, p. 102).

Thus, the strength of the division of sexual roles that comes from the private sphere is expressed: in public spaces, women are also hierarchized, since the attempt to separate the female archetype of domestic life (socially inserted as a natural manifestation) from their function as political agents is innocuous. In the same context, the position of men in public environments - as nothing is expected of their functions in the private sphere - is unrestricted, as well as respected, autonomous, and considered appropriate to the competitive rules of the political game (Perrot, 2007, p.15).

This happens not only at the national level, in terms of elected positions, but also at the international level. Meetings of the United Nations (UN), the World Trade Organization (WTO), the North Atlantic Treaty Organization, the World Bank, etc. show a large male majority in leadership positions. The main decisions with global repercussions are made by and for men.

In this sense, when we don't question and naturalize the absence of women in these areas and the fact that there are no women occupying positions of command in public spaces of power - whether at local or global level - we assume that representative bodies must be a reflection of the subalternity of private environments.

It is therefore essential that there is a social understanding that the position occupied by women in the domestic sphere is not simply "different" from that of men. It is inferior and the result of a condition of oppression of their own choices, control, and violence. As a result, the maxim that politics is not a female environment reinforces the permanence of this gender on the margins of decisions about their own rights (Biroli; Miguel, 2014, p. 102).

The need to maintain structures of gender oppression may be the cause of the under-representation of women in local and global politics (Biroli; Miguel, 2014). Conveniently supporting women's inability to deal with politics also reinforces the maintenance of the structure of social hierarchy, whereby men are at the top and women at the bottom. This is because, based on the absence of women in the structured political field, there is a masculinized legal and political narrative, in other words, a body of legislation produced, for the most part, by men and for men, which does not (or is slow to) serve the interests of women, especially when it comes to public policies that discuss reproductive health, equal pay and gender violence, for example.

In this context, the dominating subject, in this case the man, who always makes up the majority in decision-making spaces, both locally and globally, often neglects the real problems detected in the hierarchical structure in which women are inserted and, as a result, there are several delays in relation to women's agendas on the world political agenda. This is not necessarily due to bad faith on the part of all those involved, but simply because they do not occupy the same social position, i.e., they are unable to understand the real demands and needs of a subaltern group since they are not part of it. Hence the importance of talking about representation and identity politics.

From the above, it can be seen that the incidence of more men and fewer women in representative positions in international institutions is not merely a consequence of the natural order of local electoral processes, but a result of this patriarchal structure that results in a lack of incentive for their effective participation.

4 Cosmopolitan feminism

It can be seen that the hierarchical structure remains cyclical, since the fewer women who get elected at local level, the fewer of them will occupy positions of command in the international sphere and, in turn, the fewer public policies and treaties to favor this group will be created and put on the agenda. Consequently, the rights and guarantees provided to this group will be weaker and it will become more difficult to overcome this structure of domination. Women's invisibility in spaces of power, therefore, is a consequence of this structure which imposes obstacles to this historically and culturally inferior class achieving a level of real emancipation.

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[9] Regarding 19th and early 20th century society: "Thinkers, both conservative and progressive, were unanimous in stating that women had no place in politics, because they lacked the attributes - intelligence, knowledge, strength, attention, dedication - necessary for the exercise of power. [...] Very different were the qualities attributed to women (provided they were members of the middle or upper classes): modesty, purity, devotion, self-denial, and diligence. These virtues flourished only in the private sphere, as they could not survive in the harshness of public life. For this reason, men did women a great favor by preventing them from participating in public life". (Barman, p. 101)

The very recognition that women's rights are part of human rights is historically recent. The founding liberalism of what were initially called "*human* rights" (since they were only generically called "*human* rights" after World War II) brought with it a Eurocentric, male and white conception of justice, based on the individual autonomy of only those who were considered citizens. Even after the French Revolution (which brought the ideals of "liberty, equality and fraternity") and the other liberal revolutions that followed it, at the beginning of the 19th century women did not have the right to vote and entire civilizations were enslaved.

The focus on gender inequality as a fundamental element in the struggle for the realization of human rights, which occurred due to the growth of feminist movements, especially throughout the 20th century, allowed their demands to be institutionalized in the treaties and conventions mentioned in the first topic of this article, even leading to the maturing of social movements around women's rights. This has also led to the recognition that gender inequality is a transnational, cross-border problem.

It also highlighted the flaws in the liberal proposal of universal human rights. The supposed liberal neutrality of human rights has proved to be exclusionary and domineering of cultures that exist on the basis of broader (and different from European) standards of morality, justice, and ethics. It has also proved incapable of considering the specificities of such historically distinct peoples. Neutral and absolutely equal treatment of people who have substantial social differences and are historically marginalized is not possible.

In this sense, cosmopolitanism seeks to defend justice that respects aspects that differentiate people (culture, gender, ethnicity, for example). According to the concept proposed by Kok-Chor Tan (2004):

> as a normative idea, takes the individual to be the ultimate unit of moral concern and to be entitled to equal consideration regardless of nationality and citizenship. From the cosmopolitan perspective, principles of justice ought to transcend nationality and citizenship, and ought to apply equally to all individuals of the world as a whole. In short, cosmopolitan justice is justice without borders.

From the idea of cosmopolitanism comes the so-called cosmopolitan feminism. This rejects the liberal political vision of human rights, claiming that it is in fact a false universalization, since it only translates the particular point of view of white Western men on justice. For Niam Reilly (2007, p. 183):

> it is vital to challenge false universalization through emancipatory political projects and not solely in the realm of metaphysics. The global women's human rights movement exemplifies such a project in its refusal to accept discriminatory practices and structural oppression based on morally irrelevant categories of gender, race, class, and so on.

According to the author, cosmopolitan feminism is based on five main elements: a) a critical commitment to Public International Law, which understands the importance of international organizations in combating gender inequality but rejects the mostly male composition of the institutions and the way in which the main global decisions are made. The structures of international organizations still reinforce the patriarchal system, which prevents important agendas on women's rights from gaining a voice and strength in reality; b) a global feminist consciousness that challenges the patriarchal, capitalist and racist system that still underpins power relations today; c) the recognition of intersectionality and the promotion of cross-border dialogues, including between non-state actors; d) the development of a political agenda that takes into account not only the positivization of rights but also strategies to make them a reality; e) the holding of global forums seeking to raise awareness of planetary citizenship and solidarity.

Obviously, much remains to be done. Structural changes are needed, involving both state and non-state actors, since this issue is still generally invisible on the global political agenda. Therefore, the focus on eliminating patriarchy, which is still the basis of international politics and prevents the feminist struggle from advancing and having more concrete effects, is urgent, even more than the approval of new treaties and conventions on the subject (although its historical importance is recognized). We're not just looking for a symbolic body of international law, but above all for it to be effective in eliminating hierarchies between human beings.

5 Conclusion

One of the most important human rights treaties, without a doubt, is the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), considered an important milestone in the protection and promotion of women's human rights in the international order, since in addition to establishing parameters for equal

treatment between men and women, it also provides for the formation of a Committee responsible for overseeing states, bringing more effectiveness to the Convention itself. Paradoxically, however, there are few studies on CEDAW, or on the main responsibilities of states in relation to its Committee. It is in this sense that this article has sought to present the main characteristics of CEDAW and the Committee's main attributions.

We have seen that CEDAW is extremely important on the international legal scene, not only because it promotes women's human rights in the quest for gender equality, but also because it represses and combats any discrimination against women in member states. Of course, much remains to be done. Women's rights are still a long way from being fully realized in practice, because unfortunately there is a huge gap between what is laid down in the treaties and what happens to women on a daily basis throughout international society.

It is understood that the solution lies not only in the increasingly forceful application of the provisions of CEDAW (and other treaties protecting women) and the monitoring and punishment of states that promote or fail to combat discrimination against women, but above all in a paradigmatic change in the structure of international organizations in general, which still reflects the patriarchy that exists in the most diverse societies.

The system that, in the private sphere, imposes and reserves for women the position of subalternity, unconditional care and the overload of domestic activities in line with paid work leads to gender hierarchization in the structured political field as well, both locally and globally, based on the various obstacles imposed on their access to positions of command and the stereotypes that exist about women's participation in politics or decision-making positions.

The problem with women's political under-representation, at a local or global level, is that the absence of a voice makes progress towards a reality closer to the end of social gender exploitation impossible. This is why, 45 years after the advent of CEDAW and more than 75 years after the creation of the UDHR, the reality remains critical. Speeches or a robust body of international norms are not enough if there are no structural changes that effectively allow women to participate in spaces of power.

References

BARMAN, Roderick J. **Princesa Isabel do Brasil:** gênero e poder no Século XIX. São Paulo: 2005.

BEAUVOIR, Simone de. **O segundo sexo**. Tradução Sergio Milliet. 2. ed. Rio de Janeiro: Nova Fronteira, 2009.

BIROLI, Flávia; MIGUEL, Luis Felipe. **Feminismo e política**. São Paulo: Boitempo, 2014.

BOURDIEU, Pierre. **A dominação masculina**. Tradução Maria Helena Kuhner. 10. ed. Rio de Janeiro: Bertrand Brasil, 2012.

COMISSÃO PARA A CIDADANIA E IGUALDADE DE GÉNERO. Guia Convenção sobre a eliminação de todas as formas de discriminação contra as mulheres (CEDAW). Lisboa: CIG, 2012. Disponível em: https://www.cig.gov.pt/wp-content/uploads/2018/01/Guia-CEDAW-_-Protocolo-Opcional_Cig.pdf. Acesso em: 02 jan. 2023.

CONSELHO NACIONAL DE JUSTIÇA. **Recomendação Geral nº 35 sobre violência de gênero contra as mulheres do Comitê para a eliminação de todas as formas de discriminação contra a mulher (CEDAW).** Brasília, DF: CNJ, 2019.

CONVENÇÃO sobre a eliminação de todas as formas de discriminação contra a mulher. **ONU Mulheres**, [*s. l*], 18 dez. 1979. Disponível em: https://www.onumulheres.org.br/wp-content/uploads/2013/03/convencao_cedaw1.pdf. Acesso em: 28 dez. 2022.

CONVENÇÃO sobre a eliminação de todas as formas de discriminação contra a mulher. Recomendação Geral nº 19 (Violência contra as Mulheres). Décima Primeira Sessão, 1992. ENFAM, Brasília, 1992. Disponível em: https://www.tjrj.jus.br/documents/10136/8038814/recomendacao-19-cedaw.pdf. Acesso em 30 dez.2022.

DE TILIO, Rafael. Marcos legais internacionais e nacionais para o enfrentamento à violência contra as mulheres: um percurso histórico. **Revista Gestão e Políticas Públicas**, Uberaba, v. 2, n. 1, p. 68-93, 2012. DOI: https://doi.org/10.11606/issn.2237-1095.v2p68-93

FRICKER, Miranda. **Injustiça epistêmica**: o poder e a ética do conhecimento. São Paulo: Editora da Universidade de São Paulo, 2023.

HOOKS, Bell. **Teoria Feminista:** da margem ao centro. Tradução Rainer Patriota. São Paulo: Perspectiva, 2019.

KYRILLOS, Gabriela M.; STELZER, Joana. Uma análise interseccional de gênero e raça sobre as medidas adotadas em prol da eficácia da CEDAW no Brasil. **Cadernos Pagu,** Florianópolis, n. 61, p. 1-16, 2021. DOI: https://doi.org/10.1590/18094449202100610013

LABRUNA, Felipe; GONZAGA, Álvaro de Azevedo; NERY, Vitor Goulart. Proteção às Mulheres: Tratados Internacionais Vigentes no Brasil. **Revista Húmus,** [*s. l.*], v. 11, n. 33, p.175-188, 2021.

PERROT, Michele. **Minha História das Mulheres**. Tradução Ângela M. S. 2. ed. São Paulo:

Editora Contexto, 2007.

PIMENTEL, Silvia. Convenção sobre a Eliminação de Todas as Formas de Discriminação contra a Mulher – CEDAW 1979. *In*: FROSSARD, Heloisa (org.). **Instrumentos Internacionais de Direitos das Mulheres.** Brasília, DF: Secretaria Especial de Políticas para as Mulheres, 2006.

PIOVESAN, Flavia. **Temas de Direitos Humanos.** 8. ed. São Paulo: Saraiva, 2015.

RAMOS, André de Carvalho. **Curso de Direitos Humanos**. São Paulo: Saraiva, 2021.

REILLY, Niamh. Cosmopolitan Feminism and human rights. **Hypatia**, [*s. l.*], v. 22, n. 4, p. 180-198, 2007.

SOUZA, Mércia Cardoso de. O Brasil e o Comitê para a Eliminação da Discriminação das Mulheres da ONU: Reflexões sobre as 29ª, 39ª e 51ª Sessões do Comitê da CEDAW. *In*: Encontro Nacional do CONPEDI. 21., 2012, Florianópolis. **Anais** [...]. Florianópolis: Boiteux, 2012, v. 1, p. 6714-6744.

SULLIVAN, Donna J. **Comentário sobre o Protocolo Facultativo à Convenção sobre a Eliminação de Todas as Formas de Discriminação Contra a Mulher.** Comissão de Direitos Humanos da Câmara dos Deputados do Brasil. Brasília, DF: Câmara dos Deputados, 2002.

UNICEF BRASIL. Declaração Universal dos Direitos Humanos. **Unicef**, Brasília, 1948. Disponível em https://www.unicef.org/brazil/declaracao-universal-dos-direitos-humanos. Acesso em: 29 dez. 2022.

VICENTE, Isabella P. **A convenção para a eliminação de todas as formas de discriminação contra as mulheres (CEDAW) e as medidas adotadas pelo brasil para garantir sua efetivação.** 2016. 62f. Monografia (Graduação em Relações Internacionais) – Universidade Federal de Santa Catarina, Florianópolis, 2016.