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The Maria da Penha Case and the Inter-American Commission on Human Rights: Contributions to the Debate on Domestic Violence Against Women in Brazil

PAULA SPIELER*

ABSTRACT

This article aims to demonstrate the contributions of the Maria da Penha case and the Inter-American Commission on Human Rights (IACHR) Report of 2001 to the debate on domestic violence against women in Brazil, with special emphasis to the adoption of the Maria da Penha Law. The IACHR was the first international human rights organ to bring to light the problem. Beside contributing to internal changes, this case has great relevance as it was the first one of domestic violence analyzed by the Inter-American Commission. It revealed the systematic pattern of violence against women in the country.

“Around the world at least one woman in every three has been beaten, coerced into sex, or otherwise abused in her lifetime. Most often the abuser is a member of her own family. Increasingly, gender-based violence is recognized as a major public health concern and a violation of human rights.”

Heise, Ellsberg, and Gottemoeller¹

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1. Lori Heise, Mary Ellsberg, & Megan Gottemoeller, *Ending Violence Against Women*, POPULATION REP., Dec. 1999, at 1.

INTRODUCTION

Brazil has ratified the main human rights treaties in the global and regional spheres, such as the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and the American Convention on Human Rights. Specifically regarding the protection of women, Brazil ratified the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) in 1984 and the Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women (Convention of Belém do Pará) in 1995. The latter Convention expressly condemns domestic violence against women and states that the parties to the Convention “agree to pursue, by all appropriate means and without delay, policies to prevent, punish and eradicate such violence.”² Moreover, the Brazilian Federal Constitution of 1988 establishes that “[t]he State shall ensure assistance to the family in the person of each of its members, creating mechanisms to suppress violence within the family.”³

However, until 2002, few initiatives existed in Brazil to combat violence against women (VAW). The first specific legislation to prevent and punish violence against women in the private sphere was adopted in 2006. Notwithstanding the importance of the feminist movement to the protection of women in Brazil, this paper will focus on the contributions of the Inter-American Commission on Human Rights to the struggle against VAW through one case study: *Maria da Penha v. Brazil*, which was filed to the Inter-American Commission on Human Rights.

I chose this case because of its strong contributions to the campaign against domestic violence toward women in Brazil, as well as because it was the first case to apply the Convention of Belém do Pará in the Inter-American Human Rights System. *Maria da Penha* survived two attempted murders by her husband; however, as a result of these attempts, she has been a paraplegic since 1983. Her petition maintained that the state condoned the situation for more than fifteen years, and that it failed to take appropriate measures to prosecute and punish her aggressor, despite repeated complaints.

This article will show that the 2001 Report of the Inter-American Commission on Human Rights about the *Maria da Penha* case had a strong impact on the domestic violence thematic in Brazil, as well as

2. Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women, art. 7, 33 I.L.M. 1534 (entered into force March 5, 1995)[hereinafter Convention of Belém do Pará].

3. CONSTITUIÇÃO FEDERAL [C.F.] [CONSTITUTION] art. 226, para. 8 (Braz.).

demonstrated the importance of the Inter-American Human Rights System in contributing to internal changes. While many articles⁴ emphasize the contribution of the CEDAW Committee Report of 2002 to the struggle against domestic violence in Brazil, this article highlights the importance of the Inter-American Commission's Report to the issue, as the Commission was the first international organ for the protection of human rights to specifically highlight the issue of domestic violence in the country.

In this article, I will analyze: (1) data on domestic violence against women globally and in Brazil; (2) the functioning and composition of the Inter-American Human Rights System (IAHRS); (3) the Maria da Penha case; and (4) contributions of the Maria da Penha case toward preventing VAW in Brazil, with special emphasis on the Maria da Penha Law.

I. DOMESTIC VIOLENCE AGAINST WOMEN

The term "violence against women" refers to many types of harmful behavior directed at women and girls by virtue of their gender. In 1993, the United Nations, through the adoption of the Declaration on the Elimination of Violence Against Women, provided the first official definition for this type of violence.⁵ According to the Declaration, VAW is considered "any act of gender-based violence that results in, or is likely to result in physical, sexual, or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivations of liberty, whether occurring in public or private life."⁶

There is an increasing consensus that the harm caused to girls and women should be understood in a gender framework, since it stems in part from women's subordinate status in society.⁷ Violence against women takes many forms (physical, sexual, psychological, and economic) and encompasses acts such as spousal battering, dowry-related violence, rape, including marital rape, and sexual abuse of female children, among others.

These forms of violence are interrelated and affect women from before birth through old age. Until recently, most governments viewed

4. See, e.g., Jodie G. Roure, *Domestic Violence in Brazil: Examining Obstacles and Approaches to Promote Legislative Reform*, 41 COLUM. HUM. RTS. L. REV. 67 (2009). Roure refers to the period "post-CEDAW" in Brazil for the progress in the struggle against domestic violence. *Id.* at 78.

5. Declaration on the Elimination of Violence Against Women, G.A. Res. 48/104, U.N. Doc. A/RES/48/104 (Dec. 20, 1993).

6. *Id.* at art. 1.

7. Heise, Ellsberg, & Gottemoeller, *supra* note 1, at 1, 3.

VAW as a minor social problem, mainly as domestic violence by a husband or other intimate partner.⁸ However, today such violence is widely recognized as a serious human rights and health problem largely because of the efforts, since the 1990s, of women's organizations, experts, and committed governments.⁹

A. Global Data

Abuse by husbands or other intimate male partners is one of the most common forms of VAW; it occurs in all countries and "transcends social, economic, religious, and cultural groups."¹⁰ Intimate partner violence is also referred to as "domestic violence" or "wife-beating" and "is generally part of a pattern of abusive behavior and control rather than an isolated act of physical aggression."¹¹

In fact, ten to fifty percent of women in fifty countries reported being hit or physically harmed by an intimate partner at some point in their lives.¹² "Physical violence in intimate relationships is oftenly [sic] followed by psychological abuse and, in one-third to over one-half of the cases, by sexual abuse."¹³ In addition, most women who suffer physical violence experience it several times.¹⁴

The United Nations' Fourth World Conference on Women, held in Beijing in 1995, identified VAW as an entrenched problem requiring immediate action. The Conference's Declaration and Platform for Action recognizes that the "absence of adequate gender-disaggregated data and statistics on the incidence of violence makes the elaboration of programs and monitoring of changes difficult."¹⁵ It was therefore recommended that there should be research and data collection "especially concerning

8. World Health Organization [WHO], WHO Multi-Country Study on Women's Health and Domestic Violence Against Women, 3 (Jan. 2005), http://www.who.int/gender/violence/who_multicountry_study/en/ (by Claudia Garcia-Moreno et al.). The term "intimate partner violence" is frequently used in lieu of "domestic violence." *Id.* at 13 n.1.

9. *Id.* at 1.

10. Heise, Ellsberg, & Gottemoeller, *supra* note 1, at 5.

11. *Id.* Intimate partner abuse is not a universal phenomenon. Anthropologists have documented small-scale societies where domestic violence is virtually absent, such as Papua New Guinea, and that data demonstrates that "social relations can be organized in a way that minimizes partner abuse." *Id.* at 7.

12. *Id.* at 5.

13. *Id.*

14. *Id.*

15. United Nations Fourth World Conference on Women, Beijing, China, September 4-15, 1995, *Beijing Declaration and Platform for Action*, ¶ 120, U.N. Doc. A/CONF.177/20/Rev.1, Annex II.

domestic violence relating to the prevalence of different forms of violence against women.”¹⁶

In 2005, the World Health Organization (WHO) Multi-Country Study on Women’s Health and Domestic Violence Against Women collected data from over 24,000 women from fifteen sites in ten countries of different cultural backgrounds: Bangladesh, Brazil, Ethiopia, Japan, Namibia, Peru, Samoa, Serbia and Montenegro, Thailand, and the United Republic of Tanzania.¹⁷ The study revealed that between 13% of women in Japan and 63% of women in provincial Peru have suffered physical violence by a male partner. Japan had the lowest level of sexual violence (6%) while Ethiopia had the highest (59%). According to the study, the most common act of violence experienced by women was being beaten by their partner, which ranged from 9% of women in urban Japan to 52% in provincial Peru.¹⁸

Women between the ages of fifteen and nineteen are considered at higher risk of “current” (within the past twelve months) physical or sexual violence, or both, in all the countries, except Japan and Ethiopia.¹⁹ In urban Bangladesh, for example, forty-eight percent of women between these ages have suffered physical or sexual violence, or both, within the past twelve months, in contrast with ten percent of women who are between forty-five and forty-nine years old.²⁰

A review of studies that occurred prior to 1999 from thirty-five countries demonstrated that between 10% and 52% of women reported being physically abused by an intimate partner at some point in their lives.²¹ Moreover, between 10% and 27% of women and girls reported that they were sexually abused, either as children or adults.²²

Several global surveys suggest that half of all women murder victims are killed by their current or former husbands or partners. According to the WHO, forty percent to seventy percent of female murder victims in Australia, Canada, Israel, South Africa, and the United States were killed by their partners.²³ “In Colombia, one woman is reportedly killed by her partner or former partner every six days.”²⁴ Today, VAW represents one of the greatest harms to women between

16. *Id.* ¶ 129(a).

17. WHO, *supra* note 8, at xii, 20.

18. *Id.* at 30.

19. *Id.* at 32.

20. *Id.*

21. *Id.* at 4 (citing Heise, Ellsberg, & Gottemoeller, *supra* note 1, at 4).

22. WHO, *supra* note 8, at 4.

23. UNiTE to End Violence Against Women Campaign, *Violence Against Women: The Situation*, UNiTE TO END VIOLENCE AGAINST WOMEN, <http://www.un.org/en/women/endviolence/situation.shtml> (last visited Sept. 14, 2010).

24. *Id.*

fifteen and forty-four years of age. Moreover, up to seventy percent of women experience violence in their lifetime.²⁵ Notwithstanding the lack of global data on the issue, the available data, with respect to some countries, demonstrates VAW as a worldwide problem that demands urgent action.

B. Brazil Data

Brazil began collecting data on VAW in the 1980s, and the data demonstrated that there was a difference in the occurrence of violence between women and men.²⁶ Throughout the 1980s, public and private institutions engaged in important research that helped map the situation in the country.²⁷ It was also in this period that the literature on VAW started to develop, aiming to give visibility to this topic.²⁸

The Brazilian Institute of Geography and Statistics (Instituto Brasileiro de Geografia e Estatística) conducted the first national research on such violence in 1988 and drafted the Supplement on Justice and Victimization.²⁹ According to the Supplement, women represented forty-four percent of the total number of victims of physical aggression. This was the first national statistic disaggregated by sex on cases of physical injuries and patrimonial crimes reported to the police.³⁰

The major difference between the violence perpetrated against men and women was related to the perpetrator's profile and site of the crime. In 63% of the cases, women's relatives were responsible for practicing the aggressions against them, and 55% of the cases occurred inside women's homes.³¹ In most cases, men who were part of the women's intimate and affective circle were the perpetrators of the violence. In contrast, 83% of the aggressions against men occurred on the streets by

25. *Id.*

26. CIDADANIA, ESTUDO, PESQUISA, INFORMAÇÃO E AÇÃO [CEPIA] [CITIZENSHIP, STUDY, RESEARCH, INFORMATION AND ACTION], VIOLENCE AGAINST WOMEN IN THE INTERNATIONAL CONTEXT: CHALLENGES AND RESPONSES 32 (Jacqueline Pitanguy ed., 2007).

27. Leila Linhares Barsted, *A violência contra as mulheres no Brasil e a Convenção de Belém do Pará Dez Anos Depois*, in O PROGRESSO DAS MULHERES NO BRASIL 246 (2006), available at http://www.mulheresnobrasil.org.br/pdf/O_Progresso_das_Mulheres_no_Brasil.pdf (author's translation).

28. In the 1990s, scholars introduced the category of gender and deepened the study of VAW. Cecília MacDowell Santos & Wânia Pasinato Izumino, *Violência contra as Mulheres e Violência de Gênero: Notas sobre Estudos Feministas no Brasil*, 16 ESTUDIOS INTERDISCIPLINARIOS DE AMÉRICA LATINA Y EL CARIBE [E.I.A.L.] 147, 147-48 (2005).

29. CEPIA, *supra* note 26, at 32.

30. *Id.*

31. *Id.*

casual acquaintances or strangers, and only 17% happened inside their homes.³²

This data demonstrates that violence affects men and women in a different way. While for women, their homes can be dangerous places and their housemates possible aggressors, men are attacked mainly by strangers on the streets. With the exception of sexual harassment, investigations into violence against women predominantly identify their husbands or partners as the perpetrator.³³

Indeed, violence is one of the main problems in Brazilian society. Brazilian women face violent situations in two different scenarios: as women exposed to gender violence and as citizens exposed to distinct forms of violence that affect Brazilian society.³⁴

In 2007, the nongovernmental organization (NGO) Cidadania, Estudo, Pesquisa, Informação e Ação (CEPIA) issued a report that included the following information: (1) every fifteen seconds a woman is beaten in the country; (2) eight percent of women have been threatened with firearms and six percent suffered sexual abuse; and (3) around sixteen percent of women (one in every six women) state that they have suffered some kind of physical violence.³⁵ In addition, in Brazil every four minutes a man beats a woman inside her home.³⁶

According to available statistics and registers from the Special Police Departments for Assistance to Women, a woman's husband or companion causes 70% of the violent incidents in the home, and more than 40% of the violent incidents (often in the form of punches, kicks, slap, burns, beatings, and strangulations) result in serious bodily injury.³⁷ Nearly 70% of murdered women are victims inside their homes.³⁸ The National Movement of Human Rights (Movimento Nacional de Direitos Humanos) conducted research that revealed that

32. *Id.*

33. Gustavo Venturi & Marisol Recamán, *As mulheres brasileiras no início do século XXI, Introduction* to A MULHER BRASILEIRA NOS ESPAÇOS PÚBLICO E PRIVADO [THE BRAZILIAN WOMAN IN PUBLIC AND PRIVATE SPACES] 30 (Gustavo Venturi et al. eds., 2004) (author's translation).

34. *Id.*

35. CEPIA, *supra* note 26, at 31.

36. CÉLIA CHAVES GURGEL DO AMARAL ET AL., DORES VISÍVEIS: VIOLÊNCIA EM DELEGACIAS DA MULHER NO NORDESTE 27-77 (2001) (author's translation).

37. *Brazil and Compliance with CEDAW*, Rep. to the Sixth National Rep. of Brazil on the Convention on the Elimination of All Forms of Discrimination Against Women 2001-2005 Period, ¶ 5 (July 2007) (compiling information collected by a constellation of participants, including "members of women's movements, militant feminists, academics, and researchers from study centers in universities," and calling the report a "Shadow Report by Civil Society") [hereinafter *Shadow Report*].

38. *Id.*

66.3% of the accused in homicides against women are the partners of the victim.³⁹

Gender differences in Brazil are also apparent in the workplace. Currently, women constitute 51.34% of Brazil's population of 189.95 million people.⁴⁰ They represent 44.4% of the working force in the country and receive 71.3% of the wages that are normally paid to men.⁴¹ Less than 40% of women have official employment while around 50% of men have an official employment.⁴²

This data reveals that VAW, especially intimate partner violence, is a complex and grave phenomenon that demands the establishment of a systematic method to collect and produce data, the adoption of specific legislation, and state action to combat the problem.

II. THE INTER-AMERICAN HUMAN RIGHTS SYSTEM

In 1948, the American Declaration on the Rights and Duties of Man was adopted. It established the guiding principles of states' conduct. All Organization of American States (OAS) States should respect and guarantee the rights established by the Declaration.

The main instrument of the IAHRs is the 1969 American Convention on Human Rights (the American Convention or ACHR). The ACHR states that the system is composed of two organs: the Inter-American Commission on Human Rights (IACHR) and the Inter-American Court of Human Rights.⁴³ The IACHR has two functions. As an OAS organ, it supervises the human rights situation on the North and South American continents, by verifying whether the states are acting in accordance with the American Declaration.⁴⁴ As an organ of

39. *Id.*

40. Instituto Brasileiro de Geografia e Estatística [IBGE], *Síntese de Indicadores Sociais: Uma Análise das Condições de Vida da População Brasileira - 2009* (Summary of Social Indicators: An Analysis of the Brazilian Population Life Conditions - 2009), ESTUDOS E PESQUISAS: INFORMAÇÃO DEMOGRÁFICA E SOCIOECONÔMICA, no. 26, 2009 at 1, 27 tbl.1.1, available at <http://www.ibge.gov.br/english/estatistica/populacao/condicaovida/indicadoresminimos/sinteseindicais2009/default.shtm>.

41. See IBGE, *ALGUMAS CARACTERÍSTICAS DA INSERÇÃO DAS MULHERES NO MERCADO DE TRABALHO: RECIFE, SALVADOR, BELO HORIZONTE, RIO DE JANEIRO, SÃO PAULO E PORTO ALEGRE: 2003-2008*, 3, 5 fig.1 (2008) (describing the results of a monthly employment survey conducted by the IBGE in six major metropolitan areas).

42. See *id.* at 3.

43. Org. of Am. States, American Convention on Human Rights, art. 33, Nov. 22, 1969, O.A.S.T.S. No. 36, 1144 U.N.T.S. 123 [hereinafter American Convention on Human Rights].

44. For further information on the Inter-American Human Rights System, see HENRY STEINER ET AL., *INTERNATIONAL HUMAN RIGHTS IN CONTEXT: LAW, POLITICS, MORALS* 1020-62 (3d ed. 2007); Antônio Augusto Cançado Trindade, *Reflexiones sobre el Futuro del*

the American Convention, the IACHR can receive petitions sent by an individual or group of persons alleging human rights violations against any state party to the Convention. After analyzing the admissibility and merits of a case, the IACHR can send it to the Inter-American Court of Human Rights (if the state involved had expressly recognized the court's contentious jurisdiction) or publish its final report with recommendations to the involved state. When a state ratifies the American Convention, it automatically recognizes the IACHR's competence to receive individual cases of human rights violation, but the state needs to expressly declare that it recognizes the Inter-American Court of Human Rights' jurisdiction.

The Inter-American System is subsidiary to national jurisdiction. Since the state maintains primary responsibility for the protection of its citizens, it should have the chance to adopt the necessary measures to solve a problem or compensate victims prior to the IACHR analyzing the case. Therefore, one of the admissibility requirements of a petition to the IACHR is the exhaustion of domestic remedies.⁴⁵ In addition, the Inter-American System is complementary to the national jurisdiction. It should be seen as an additional mechanism for the protection of human rights when the state is ineffective or incapable of solving a problem domestically.

The IACHR focuses on civil and political rights, just like the 1951 European Convention on Human Rights. Article 26 of the IACHR broadly proclaims that states should adopt measures to progressively achieve the realization of economic, social, and cultural rights.⁴⁶ The American Convention has two additional protocols to abolish the death penalty and to promote the area of economic, social, and cultural rights. In addition, the IACHR has four conventions⁴⁷ that deal with specific issues, one of which is the Convention of Belém do Pará.

The Convention of Belém do Pará defines violence against women "as any act or conduct, based on gender, which causes death or physical, sexual or psychological harm or suffering to women, whether in the

Sistema, Interamericano de Protección de los Derechos Humanos, in *EL FUTURO DEL SISTEMA INTERAMERICANO DE PROTECCIÓN DE LOS DERECHOS HUMANOS* 573, 574-75 (Juan E. Mendez & Francisco Cox eds., 1998) (author's translation).

45. American Convention on Human Rights, *supra* note 43, art. 46.1. *But see id.* art. 46.2 (listing exceptions to this requirement).

46. *Id.* art. 26.

47. The Inter-American Convention to Prevent and Punish Torture; the Inter-American Convention on the Forced Disappearance of Persons; the Inter-American Convention on the Elimination of All Forms of Discrimination Against Persons with Disabilities; and the Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women, also known as the Convention of Belém do Pará.

public or the private sphere.”⁴⁸ Article 7 notes that the state parties have a duty to pursue “by all appropriate means and without delay, policies to prevent, punish and eradicate such violence.”⁴⁹ If a state party violates Article 7, “any person or group of persons, or any nongovernmental entity legally recognized in one or more member states of the Organization, may lodge petitions with the Inter-American Commission on Human Rights containing denunciations or complaints of violations.”⁵⁰ In fact, this is the only article of the Convention of Belém do Pará that, if violated, can be referred to the IACHR.

Thirty-two state parties have ratified the Convention of Belém do Pará.⁵¹ In addition, the Convention has enabled the amendment of criminal codes and laws on violence against women in several countries. It constitutes the only regional, binding international instrument with the objective of stopping gender-based violence.

Brazil ratified the American Convention in 1992 and the Convention of Belém do Pará in 1995, and the country recognized the jurisdiction of the Inter-American Court of Human Rights in 1998. This means that, in general, a person can only lodge a petition to the Inter-American Commission alleging violation to the American Convention that occurred after 1992, and a violation of Article 7 of the Convention of Belém do Pará that happened after 1995. The Inter-American Court can only receive complaints of violations that occurred after 1998. However, as will be shown through the study of the *Maria da Penha* case, the Inter-American Commission can analyze cases that occurred before the ratification of either convention if those cases concern ongoing violations.

III. THE MARIA DA PENHA CASE

On August 20, 1998, Maria da Penha Maia Fernandes (hereinafter *Maria da Penha*), the Center for Justice and International Law (CEJIL), and the Latin American and Caribbean Committee for the Defense of Women’s Rights (CLADEM) filed a petition to the IACHR against the Federative Republic of Brazil.⁵²

48. Convention of Belém do Pará, *supra* note 2, art. 1.

49. *Id.* art. 7.

50. *Id.* art. 12.

51. Org. of Am. States, Signatories and Ratifications to the Convention of Belém do Pará, ORG. AM. STS., <http://www.oas.org/juridico/english/sigs/a-61.html> (last visited Sept. 15, 2010).

52. *Fernandes v. Brazil (Maria da Penha)*, Case 12.051, Inter-Am Comm’n H.R., Report No. 54/01, OEA/Ser.L/V/II.111, doc. 20 ¶¶ 1-2 (2000).

The petitioners allege that the Brazilian government condoned, for years during their marital cohabitation, domestic violence perpetrated in the city of Fortaleza in the state of Ceará, by Marco Antônio Heredia Viveiros against his wife at the time, Maria da Penha, with whom he had three daughters, culminating in two attempted murders at her home and further aggression in May and June of 1983.

During the first murder attempt, Marco Antônio Viveiros shot Maria da Penha while she was asleep. As a result, Maria da Penha suffers from irreversible paraplegia and other physical and psychological ailments. The second time, he tried to electrocute her while she was bathing. Following this attempt, Maria da Penha decided to seek a legal separation. In 1998, the case continued without a final ruling against Maria da Penha's husband even though popular jury had already condemned him twice.⁵³ The petition maintains that:

the State condoned [Maria da Penha's] situation, since, for more than 15 years, it . . . failed to take the effective measures required to prosecute and punish the aggressor, despite repeated complaints. Specifically, the petitioners alleged violation of Article 1(1) (Obligation to Respect Rights), 8 (a Fair Trial), 24 (Equal Protection), and 25 (Judicial Protection) of the American Convention, in relation to Articles II and XVIII of the American Declaration of the Rights and Duties of Man . . . , as well as Articles 3, 4[(a)-(g)], and 5 and 7 of the Convention of Belém do Pará.⁵⁴

The Commission concluded that the Brazilian Government violated Maria de Penha's rights by denying her a fair trial, judicial protection (under Articles 8 and 25 of the American Convention), and equal protection (under Article 24 of the American Convention), as well as Articles II and XVIII of the American Declaration and the duties established in Article 1.1 of the American Convention and Article 7 of the Convention of Belém do Pará.⁵⁵

According to the IACHR, these violations form a pattern of discrimination evidenced by the condoning of VAW in the country through ineffective judicial action. In fact, violence affects women of every social, cultural, and economic class, contrary to the common perception that domestic violence affects only poor women. In the

53. *Id.* ¶ 36.

54. *Id.* ¶ 2.

55. *Id.* ¶ 60.1.

instant case, for example, Maria da Penha and her ex-husband both hold graduate degrees, demonstrating that VAW exists regardless of class.

The IACHR held that it had *rationae materiae*, *rationae loci*, and *rationae temporis* competence to hear the case since the petitioners alleged violations of rights protected by the American Declaration and by the American Convention when they became binding to the State in 1992.⁵⁶ Even though the assaults occurred in 1983, the Commission held the view that the failure to guarantee due process was an ongoing violation.⁵⁷ In this sense, it would also be covered under the American Convention and Convention of Belém do Pará since “the alleged tolerant attitude of the State constituted an ongoing denial of justice” to Maria da Penha, creating a situation that made the conviction of the perpetrator and the compensation of the victim impossible.⁵⁸ According to the IACHR, Maria da Penha felt the effects of the “situation of impunity and defenselessness” after the ratification of both instruments.⁵⁹ Ongoing violations constitute an exception to the rule that states are only accountable for violations that occur after the ratification of each convention. The purpose behind this exception is that a state’s failure to address the violations in a timely manner led to further violations which continued after the ratification of the conventions.

With respect to the requirement for admissibility of a petition, Article 46.1 of the American Convention requires that parties exhaust domestic remedies prior to bringing a case before the IACHR. However, Article 46.2 provides an exception to the rule if there is an unwarranted delay in obtaining a domestic decision. In fact, the Brazilian government never replied to the Inter-American Commission. Therefore, the State tacitly waived its right to invoke the requirement of exhaustion of domestic remedies prior to bringing the case before the IACHR.⁶⁰ The silence of the State in this case led to the presumption of veracity of the facts.

Regarding the merits of the case, the IACHR jointly analyzed the rights to justice, to a fair trial, and to judicial protection. The IACHR emphasized that the police investigation completed in 1984 provided “clear and decisive evidence for concluding the trial” and that proceedings were delayed numerous times by “long waits for decisions, acceptance of appeals

56. *Id.* ¶ 27.

57. *Id.*

58. *Id.*

59. *Id.*

60. *Id.* ¶ 31.

that were time-barred, and unwarranted delays.”⁶¹ Indeed, appropriate investigations only began eight years after the attempted murder, and it took more than seventeen years for a final sentence in the case. This violated the “reasonable time” requirement established in Article 8.1 of the American Convention and Article 25.1 of the Convention, which notes, “the right to simple and prompt recourse, or any other effective recourse, to a competent court or tribunal.”⁶²

With respect to the violation of equal protection, the petitioners demonstrated, through data available from Human Rights Watch,⁶³ the disparity between men and women as victims of domestic violence. For instance, a police officer reported that in none of the 2,000 cases of rape or beating had the perpetrators been punished.⁶⁴

Although in 1991 the Supreme Court of Brazil “struck down the archaic ‘honor defense’ as a justification for wife-killing,” many courts still failed to punish the perpetrators of domestic violence.⁶⁵ In some places, the honor defense continues.

In the 1980s, the honor defense was an ongoing problem in Brazil in part because of its social acceptance.⁶⁶ The most famous case was that of Angela Diniz and Raúl Doca Street. Doca Street killed Angela after she ended their relationship, and the jury on the case sentenced him to only two years of jail time because it was a crime of “violent emotion.”⁶⁷ Angela’s family contracted an independent lawyer who was able to nullify the first trial and obtain a second trial. In this trial he was condemned to fifteen years in jail for homicide, which was a victory for the women’s movement since thousands of women protested against the first sentence.

In relation to the Convention of Belém do Pará, Article 7 establishes a states’ duty to pursue policies to prevent, punish, and eradicate VAW. According to the IACHR, Article 7 represents a list of commitments that Brazil has failed to accomplish:

Given the fact that the violence suffered by Maria da Penha is part of a general pattern of negligence and lack of effective action by the State in prosecuting and convicting aggressors, it is the view of the Commission that this case involves not only failure to fulfill the

61. *Id.* ¶ 39.

62. American Convention on Human Rights, *supra* note 43.

63. *Maria da Penha*, *supra* note 52, ¶ 2.

64. *Id.* ¶ 21 n.2.

65. *Id.* ¶ 47.

66. Roure, *supra* note 4, at 74.

67. *Id.* at 73-74 (citing Sara Nelson, *Constructing and Negotiating Gender in Women's Police Stations in Brazil*, 23 *LATIN AM. PERSPECTIVES* 131, 133 (1996)).

obligation with respect to prosecute and convict, but also the obligation to prevent these degrading practices.⁶⁸

The IACHR revealed the systematic acceptance of VAW in Brazil, and the IACHR concluded that Brazil was responsible for the negligence and tolerance with respect to domestic violence against women in the country. The IACHR stated that the Brazilian courts were inefficient, by virtue of the unwarranted delay, in processing, condemning, and punishing the aggressor as well as for not compensating the victim. In fact, the IACHR concluded that both national legislation and the judicial system were inadequate and inefficient in dealing with domestic violence cases. The aggressors in most domestic violence cases remain unpunished, and the victims do not obtain compensation.⁶⁹

The IACHR issued four recommendations to the Brazilian government: (1) rapidly and effectively complete the criminal proceedings against Marco Antonio Viveiros; (2) conduct “a serious, impartial, and exhaustive investigation to determine responsibility for the irregularities or unwarranted delays” in his prosecution; (3) grant the victim “appropriate symbolic and actual compensation”; and (4) adopt measures to put an end to the State’s condoning of domestic VAW. Recommended measures in the final category included: taking steps to raise the awareness of officials of the judiciary and specialized police; simplifying and streamlining criminal proceedings; establishing alternatives to judicial mechanisms; increasing the number of special police stations; teaching police units about how to handle domestic conflict, the importance of respecting women, and rights recognized in the Convention of Belém do Pará; and reporting on the State’s progress in implementing these goals.⁷⁰ The next section of this article will show that Brazil implemented all the recommendations except the second (“conduct a serious, impartial, and exhaustive investigation to determine responsibility for the irregularities or unwarranted delays”).

IV. CONTRIBUTIONS OF THE MARIA DA PENHA CASE TO THE PROTECTION OF WOMEN AGAINST VAW IN BRAZIL

The IACHR report was a key set of guidelines explaining how Brazil could change its approach to domestic violence. The effective use of this regional litigation mechanism combined with international pressure, the use of the CEDAW committee, and the activism of the Brazilian

68. *Maria da Penha*, *supra* note 52, ¶ 56.

69. *Id.* ¶ 42.

70. *Id.* ¶ 61.

feminist movement led to important changes domestically. It is important to highlight that prior to the release of the IACHR's report, the State had already adopted some initiatives to combat VAW, including:⁷¹ (1) the establishment in 1985 of special police stations ("delegacias de mulheres") to receive complaints regarding VAW; (2) the creation of shelters for battered women;⁷² and (3) the 1991 decision of the Brazilian Supreme Court banning the use of "honor defense" as a justification for wife-killing. However, all of the initiatives were implemented on a limited basis and did not correspond to the urgency of the issue.⁷³

The Brazilian government gradually changed national legislation in order to ensure the equal treatment between men and women. These modifications were largely due to the ratification of the CEDAW and the Convention of Belém do Pará as well as national and international pressure. The Brazilian Constitution, adopted in 1988, includes provisions of equality between men and women. In 1994, the National Congress removed all reservations to the CEDAW since it recognized that they were contrary to gender equality.⁷⁴

After the publication of the IACHR Report, the Brazilian government took several actions in order to combat VAW in the country. This article will focus on the adoption of Maria da Penha Law since it is the first legislation in Brazil focused on domestic violence. However, before analyzing this law, I will highlight other important initiatives to combat domestic VAW in the country.

A. Changes regarding VAW in Brazil from 2002 to 2008

In October 2002, Marco Antônio Viveiros was finally arrested.⁷⁵ Moreover, the media started to transmit information on VAW in Brazil and interviews with Maria da Penha contributing to the awareness of the problem and stimulating women to denounce domestic violence that was committed against them.

71. *Id.* ¶ 50.

72. The number of shelters for victims of violence increased gradually. In 2002, there was only one shelter in the state of Rio de Janeiro, having increased to four by 2008. In 2009, there were sixty-seven shelters spread throughout Brazil. Roure, *supra* note 4, at 72.

73. *Maria da Penha*, *supra* note 52, ¶ 50.

74. Roure, *supra* note 4, at 71. Reservations included the objection to guaranteeing equal personal rights to men and women, including giving women the right to choose their family name and domicile. *Id.*

75. *Shadow Report*, *supra* note 37, at ¶ 3.

Brazil's new civil code, enacted in 2002, revoked the former civil code and gave equal treatment to men and women in all spheres.⁷⁶ The Brazilian Civil Code of 1916 treated men and women unequally. For example, the codes define marriage differently. A woman's domicile was the same as her husband's domicile.⁷⁷ A man had ten days to file a petition to annul his marriage if his wife was previously deflowered.⁷⁸ He was the "chief" of the home⁷⁹ and the woman was his companion.⁸⁰ In this sense, the new civil code revoked expressions such as "chief of the marital society."⁸¹ These initiatives aimed at promoting the principle of equality between women and men guaranteed in the Brazilian Constitution and international human rights treaties.

In 2003, the NGOs CLADEM, CEJIL, and Actions in Citizenship Gender and Development (AGENDE) sent a special report to the CEDAW committee about the Maria da Penha case, alleging that Brazil's nonobservance of the IACHR recommendations constituted a violation of the CEDAW.⁸² Based on the NGOs' report, the CEDAW committee recommended that Brazil adopt legislation addressing domestic violence problems.⁸³ Indeed, the Brazilian feminist movement played a crucial role in pressuring the government to adopt concrete measures to combat VAW.

Brazil declared 2004 to be the "Year of the Woman."⁸⁴ Therefore, several initiatives were developed regarding women's issues. For example, the Brazilian government organized the National Seminar on the Struggle against Violence against Women, aiming to discuss actions the government could take in order to combat VAW. As a result, in 2005

76. *Shadow Report*, *supra* note 37, ¶ 7. This modification is in consonance with the Brazilian Constitution of 1988, which states that "[t]he rights and the duties of marital society shall be exercised equally by the man and the woman." CONSTITUIÇÃO FEDERAL [C.F.] [CONSTITUTION] art. 226, para. 5) (Braz.).

77. CÓDIGO CIVIL [C.C.] [CIVIL CODE] art. 36 (1916) (Braz.).

78. *Id.* art. 178, sec. 1.

79. *Id.* art. 233.

80. *Id.* art. 240.

81. *Shadow Report*, *supra* note 37, ¶ 8.

82. Comité de América Latina y El Caribe para la Defensa de los Derechos de la Mujer [CLADEM], *Sistematización de experiencias en litigio internacional*, 46 (Oct. 2009), available at http://www.cladem.org/index.php?option=com_rokdownloads&view=file&Itemid=165&task=download&id=346.

83. *Id.* at 23.

84. This was declared in the 2003 Law No. 10745. Comm. on the Elimination of Discrimination Against Women, *Consideration of Reports Submitted by States Parties Under Article 18 of the Convention on the Elimination of All Forms of Discrimination Against Women*, 12, U.N. Doc. CEDAW/C/BRA/6 (Aug. 29, 2005).

the government launched the National Campaign on Violence Against Women: Tolerance Zero.⁸⁵

The Brazilian criminal code was also modified to promote equal treatment between men and women. In 2005, Law no. 11106/2005 withdrew the discriminatory term “honest woman” from Articles 215, 216, and 219, and revoked Article 217, which made reference to “virgin woman.”⁸⁶ This law also revoked articles with discriminatory and moralistic meanings, including one article that criminalized adultery⁸⁷ and another that prevented the perpetrators of sexual crimes from being punished if the perpetrator was married to the victim.⁸⁸

In 2007, the Brazilian government assured that one billion Brazilian reais (hereinafter BRL) would be invested in programs of the National Pact to Combat Violence Against Women (Pacto Nacional pelo Enfrentamento à Violência contra as Mulheres).⁸⁹ The pact encompasses several initiatives to combat violence against women in the country until 2011.

The state of Ceará paid Maria da Penha a symbolic reparation of around BRL 60,000 (USD 35,000) and, in 2008, made public apologies to her as determined by the Inter-American Commission. Moreover, the Brazilian federal government launched a hotline for women who are victims of domestic violence.⁹⁰

B. The Maria da Penha Law

Despite the importance of the above achievements, this article emphasizes the importance of the Maria da Penha Law, since it is the first federal criminal legislation that incorporates a gender perspective to combat domestic violence against women in Brazil. Prior to the Maria da Penha Law, the special civil and criminal courts, established by law no. 9099/1995, took domestic violence cases.⁹¹ Those courts received the cases that the legislature considered to be less complex or offensive, including crimes with a maximum sentence of two years.⁹²

Law no. 1134/2006, also known as the Maria da Penha Law, came into force on September 22, 2006. “It aims to restrain domestic and family

85. CLADEM, *supra* note 82, at 46 (author’s translation).

86. *Shadow Report*, *supra* note 37, ¶ 10.

87. *Id.*

88. *Id.* ¶ 10 (paragraphs VII and VIII of Article 107).

89. SECRETARIA ESPECIAL DE POLÍTICAS PARA AS MULHERES DO GOVERNO FEDERAL, ENFRENTAMENTO À VIOLÊNCIA CONTRA A MULHER 8 (2007), *available at* http://200.130.7.5/spmu/docs/violencia_2007.pdf.

90. CLADEM, *supra* note 82, at 49 (author’s translation).

91. *Shadow Report*, *supra* note 37, ¶ 2, n.1.

92. *Id.*

violence against women; define the main forms of violence affecting women in their daily lives (sexual, economic, physical, psychological, and moral violence); determine several mechanisms and measures for prevention, protection and assistance to women in situations of violence; and establish the punishment and reeducation of the aggressors.”⁹³ This law represents a great advance over the legal framework under Law no. 9099/1995, which had created a “legacy of impunity.”⁹⁴

This section will address the innovations of the Maria da Penha Law by analyzing three topics: (1) the creation of mechanisms to prevent and curb VAW according to the Brazilian Constitution, the Convention of Belém do Pará, CEDAW, and other international human rights instrument that Brazil has ratified; (2) the creation of Special Courts on Domestic and Familiar Violence Against Women; and (3) the establishment of assistance and protection measures for women in cases of domestic violence.

1. The Creation of Mechanisms to Prevent and Restrain Domestic VAW in Consonance with the Constitution, the Convention of Belém do Pará, and the CEDAW

According to Article 1 of the Maria da Penha Law:

This law establishes mechanisms to curb and prevent domestic violence against women, pursuant to § 8 of art. 226 of the Constitution, the Convention for the Elimination of All Forms of Violence against Women, the Inter-American Convention for the Prevention, Punishment and Eradication of Violence against Women and other international treaties ratified by the Federative Republic of Brazil, provides for the creation of Special Courts for Domestic and Family Violence against Women, and establishes measures to protect and assist women in situations of domestic violence.⁹⁵

Article 1 determines the importance of international instruments to the protection of human rights. It emphasizes that the State should comply with its duty to protect and promote the rights established by the treaties it has ratified, particularly those that establish gender equality

93. *Shadow Report*, *supra* note 37, ¶ 3.

94. *Id.* ¶ 2.

95. Lei No. 11.340, de 7 de Agosto de 2006, DIÁRIO OFICIAL DA UNIÃO [D.O.U.] de 8.8.2006, art. 1 (Braz.) (author’s translation).

and condemn VAW. In this sense, the creation of the law is primarily due to Brazil's nonobservance of the CEDAW and the Convention of Belém do Pará. For example, Brazil violated Article 7 of the Convention of Belém do Pará, and, as a consequence, the IACHR stated that Brazil should adopt measures to combat VAW. In this sense, the Inter-American Commission decision initiated the process of changes that culminated in the adoption of the Maria da Penha Law.

It is also important to highlight the role of civil society in the creation of the Maria da Penha Law. The women's movement and NGOs joined efforts in order to achieve gender equity in the country. Two joint initiatives by these groups, the 2002 Brazilian Governmental Working Group on Law no. 9099/1995 and the Inter-Ministerial Working Group, worked towards the goal of creating a legislative document on domestic violence, which ultimately became the Maria da Penha Law.

National and international pressure led the Brazilian government to adopt this law, which demonstrated the legislature's understanding that criminal acts committed in the private sphere should be considered as contemptible as crimes committed in public spaces and that a gender perspective was necessary to deal with VAW. Before 2006, Brazil did not have a criminal law that specifically addressed domestic violence. The special courts, established by Law no. 9099/1995, usually judged domestic violence cases. However, this law was ineffective in protecting women from violence because it did not have a gender component and did not give special attention to crimes that occur in the private sphere.

Brazilian law differentiates public criminal acts from private criminal acts. The first, "also defined as a crime committed by a stranger in a public sphere, is a crime committed against one or more persons. This type of crime is considered an offense against society as a whole."⁹⁶ The criminal state prosecutor is the one responsible for punishing public criminal acts. In contrast, the victim or the victim's legal representative is responsible for reporting private criminal acts (such as rape, threats, and acts committed against women inside their homes). After reporting the crime, the victim can choose to initiate state action.

Women are usually victims in the private sphere, while men are mainly victims in public areas. Brazilian law provides, in theory, the same degree of punishment for private and public crimes. But in practice, domestic violence against women is not punished as severely

96. Roure, *supra* note 4, at 75 (citing Leila Linhares Barsted & Jacqueline Hermann, *Legal Doctrine and the Gender Issue in Brazil*, 7 AM. U.J. GENDER SOC. POL'Y & L. 235, 248 (1999)).

because of a “cultural ethos that qualifies these acts as a lesser form of violence.”⁹⁷

Despite of the gravity of the problem, there is a worldwide tendency to accept a criminal law that impacts some groups in a different way. In addition, “crimes committed in public are considered more serious than crimes committed in private.”⁹⁸ This uneven treatment “sends the message to society” that private crimes should not be as severely punished as crimes committed by strangers in a public area.⁹⁹ However, this message is incompatible with Brazil’s duty under the international agreements it has ratified to protect and promote human rights.

The Maria da Penha Law establishes preventative measures in Article 8. Among those measures, some are in consonance with the IACHR Report, including the establishment of police stations dedicated to crimes involving women; the promotion of research, study, and statistics referent to the causes, consequences, and regularity of domestic VAW; a permanent training for civil and military police officers; and the inclusion in teaching curriculums of the study of human rights, gender equity, and the problem of domestic and familiar violence against women.

2. The Creation of Special Courts on Domestic and Familiar VAW

Law no. 9099/1995, which created the special criminal and civil courts, did little to protect women from domestic violence since in the majority of cases they classified domestic violence as “light” batteries.¹⁰⁰ Under this law, most domestic violence against women was considered a minor offense.¹⁰¹

In theory, Law no. 9099 presented a quick solution for the civil cases considered of less complexity so as defined in Article 3¹⁰² as well as to

97. *Id.*

98. *Id.* at 76 (citing *Shadow Report*, *supra* note 37, at 10, ¶¶ 13-16).

99. *Id.* at 76-77.

100. Comm. on the Elimination of Discrimination Against Women, *Consideration of Reports Submitted by States Parties Under Article 18 of the Convention on the Elimination of All Forms of Discrimination Against Women*, 34, U.N. Doc. CEDAW/C/BRA/1-5 (Nov. 7, 2002).

101. *Shadow Report*, *supra* note 37, ¶ 2.

102. The Special Civil Court has jurisdiction for conciliation proceedings and trial of civil suits of lesser complexity were as follows:

I-cases whose value does not exceed forty times the minimum wage;

II-those listed in Art. 275, section II of the Code of Civil Procedure;

III-the eviction for personal use;

IV-the possessory actions over property of a value not exceeding that specified in Item I of this article.

§ 1 It is for the Special Court to promote the implementation:

crimes of minor offense.¹⁰³ Nevertheless, the nature of domestic violence and the unbalanced power relation between those involved in the conflict led many women to give up lawsuits against their aggressors. Ten years after the adoption of this law, around seventy percent of the cases filed to the special criminal courts were related to domestic violence against women.¹⁰⁴

Even though most of the cases dealt with under this law were about domestic violence, this law also handled disputes between neighbors.¹⁰⁵ Jodie Roure demonstrates that, in two different cases (one concerning domestic violence and the other concerning a dispute between neighbors), the special criminal court ordered the same penalty: the losing party was required to donate a food basket to a local charitable organization.¹⁰⁶ Undoubtedly these crimes do not deserve the same punishment. This inappropriate treatment brought to light the necessity of having a specific law on domestic violence.

The Maria da Penha Law not only establishes special courts to deal with the domestic violence but also expressly states that the special courts created by Law no. 9099/1995 can no longer judge domestic violence cases.¹⁰⁷ In this sense, the creation of the Special Courts on Domestic and Familiar Violence Against Women demonstrates the necessity of giving special attention to domestic violence problems in Brazil.

With respect to the applicable penalty for domestic violence, the Maria da Penha Law modified Article 129 of the criminal code (regarding battery) to increase the maximum penalty (the aggressor can now get from 3 months to 3 years in jail) and prevent the donation of food basket as a penalty.¹⁰⁸

I-of its decisions;

II-the extrajudicial enforcement orders, valued at up to forty times the minimum wage, as set forth in § 1, art. 8 of this Act.

Lei No. 9.099, de 26 de Setembro de 1995, D.O.U. de 27.9.1995, art. 3 (Braz.) (author's translation).

103. For the purposes of this Law, criminal misdemeanors and crimes for which the law imputes a maximum penalty not exceeding two years, combined with a fine or not, are considered criminal offenses of lower offensive potential. *Id.* art. 61, amended by Lei No. 11.313, de 28 de Junho de 2006, D.O.U. de 29.6.2006 (Braz.) (author's translation).

104. CEPIA, *supra* note 26, at 38-39.

105. *See, e.g.*, Roure, *supra* note 4, at 81.

106. *Id.*

107. Lei No. 11.340, de 7 de Agosto de 2006, D.O.U. de 8.8.2006, art. 41 (Braz.).

108. MARIA BERENICE DIAS, A LEI MARIA DA PENHA NA JUSTIÇA 100 (2007). Prior to the adoption of the law, the aggressor could be put in jail for six months to one year. Law no. 10886 of 2004 had already amended the Criminal Code in order to consider domestic violence as an aggravated element to batteries. It included paragraph 9 to Article 129: "If the injury is inflicted on ascendant, descendant, brother, spouse or partner, or with whom

3. The Establishment of Assistance and Protection Measures for Women in Cases of Domestic Violence

The Maria da Penha Law is innovative in that it creates mechanisms to protect and assist women in domestic violence cases. For example, the judge in a domestic violence case can order the aggressor to be removed from the home or from the place of cohabitation with the victim, can prohibit the aggressor from coming near the victim, and can suspend visits to minor dependents.¹⁰⁹ The judge can also order the preventative detention of the aggressor during any phase of the police investigation.¹¹⁰

In relation to the urgent protective measures to the victim, the judge can, among other measures, send the victim and her dependents to a governmental or community protection program and return to her home after the removal of the accused.¹¹¹ Both types of measures are considered urgent actions for the protection of women and can be taken after the judge has verified the domestic violence occurred.

The Maria da Pehna law also created a network of protection for women composed of public defender units, psychosocial and legal service centers, shelters, special police units, specialized courts, medical and legal experts centers, and centers of education and rehabilitation for aggressors, among other measures of protection.

CONCLUSION

The importance of the Maria da Penha case is twofold: it contributed to the protection of women in the Americas, in general, and in Brazil specifically. Regarding its effect on the Americas, this was the first case in the Inter-American Human Rights System to apply the Convention of Belém do Pará. The case brought to light the need to urge states to take actions to promote gender equality and combat domestic VAW. Moreover, it demonstrated that a state can be held accountable for violating the Convention of Belém do Pará, mainly for not adopting measures to restrain the occurrence of VAW.

With respect to Brazil, this case revealed the systematic pattern of VAW in the country and the inefficiency of the judicial system in dealing with this type of issue. Brazil's Constitution and several

the person lives or has lived, or even relying on the agent of domestic relations, cohabitation or hospitality." *Id.* (author's translation).

109. Lei No. 11.340, de 7 de Agosto de 2006, D.O.U. de 8.8.2006, art. 22(II),(III)(a),(IV) (Braz.).

110. *Id.* art. 20.

111. *Id.* art. 23(I)-(II).

international human rights treaties ratified by Brazil, include the principle of equality between men and women. However, in practice the judicial system gave different treatment to acts that occurred in the private and public spheres. Crimes that occurred inside the house are, in general, considered less serious than those committed in the public sphere. The cultural acceptance of domestic violence aggravated this problem.

In addition, the Maria da Penha case showed the importance of international mechanisms to pressure national governments to ensure the prevention and reparation of human rights violations in the national sphere. Notwithstanding the strong contribution of other actors, mainly the feminist movement and NGOs, to the process of changing Brazilian laws, the Inter-American Commission's decision constituted the initial step for the adoption of measures to combat VAW in the country.

In fact, few initiatives existed specifically to prevent VAW prior to the 2001 Inter-American Commission Report. As shown, it was after 2002 that the Brazilian government punished Maria da Penha's ex-husband and gave her symbolic reparations. In addition, Brazil started to adopt important measures to prevent VAW in the country, with the approval of the Maria da Penha Law being the most significant measure.

In conclusion, the decision of the Inter-American Commission on the Maria da Penha case demonstrates that the use of international human rights mechanisms can be an effective way to pressure governments to ensure the protection and reparation of the rights violated as well as to take preventive measures to stop new violations.