

Scars on Women's Bodies: The State's International Responsibility from the Perspective of the Inter-American Court of Human Rights on Women Victims of Sexual Slavery and Torture *

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1. Introduction

More than two decades have passed since the events that triggered the decision of the Inter-American Court of Human Rights in the *López Soto et al. v. Venezuela* case¹, ruled on 26 September 2018. For the first time, the State of Venezuela was condemned for failing to adequately protect a woman from the violence of her abductor, who had been left *de facto* unpunished.

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¹ IACtHR, *Case of López Soto et al. v. Venezuela*, 26 September 2018. In-depth analysis of the *López Soto et al. v. Venezuela* case, see I. Spigno - F.G. Ruz Dueñas, *Evolución de la jurisprudencia interamericana en materia de tortura sexual contra las mujeres: López Soto y otros vs. Venezuela [2018] y Mujeres Víctimas de Tortura Sexual en Atenco vs. México [2018]*, in L.E. Ríos Vega - I. Spigno (eds.), *Estudios de casos líderes interamericanos. Vol. XX. La jurisprudencia interamericana más relevante de 2018 a debate*, México, 2021, p. 161 ff.; C. Chinkin - K. Yoshida - G. Fernández Rodríguez de Liévana, *Sexual Slavery: Linda Loaiza López Soto vs. Venezuela*, in *LSE Women, Peace and Security blog*, 29 January 2020; on the same blog, see also L. Gormley, *Gender based violence as torture: the case of Linda Loaiza López Soto*, in *LSE Women, Peace and Security blog*, 5 December 2019; D. Romero - G. Morano, *La esclavitud sexual: algunas consideraciones a partir del caso Linda Loaiza López Soto desde una perspectiva de género*, in *Lecciones y Ensayos*, 108, 2018, p. 151 ff.

The judgment was delivered after the submission by the Inter-American Commission on Human Rights², which in its report highlighted several critical aspects related to the behavior of the Venezuelan State in dealing with the case of Ms. López Soto. Among these are the alleged violations in protecting the woman's liberty, ensuring the absolute prohibition of torture and cruelty, inhumane and degrading treatment. In addition to this situation of "acquiescence" of the Venezuelan authorities, the Commission also stresses that they did not grant equal access to justice due to the unreasonable length of the national trial. In this respect, it states that «the egregious acts of violence she suffered had been investigated under a discriminatory legal framework»³.

The Inter-American Court of Human Rights⁴ is called upon to decide on many and various aspects, and with this in mind we will attempt to retrace the reasoning of the Court of San José which unanimously holds the defendant State responsible for all the violations proposed.

More precisely, after the description of the facts of the case (Section 2), the paper will be devoted to the explanation of the issue related to the State's obligation in the case of the violation of women's fundamental rights (Section 3). The analysis will then focus on the duties that lie with the State to prohibit sexual slavery and torture (Section 4). Lastly, the investigation will examine the consequences of inadequate legislation on violence against women in the case at hand (Section 5), and the remedies adopted by the IACtHR to remedy the violations assessed (Section 6).

2. The Circumstances of the Case

Linda Loaiza López Soto was eighteen years old when her abductor, Luis Antonio Carrera Almoína, took her from the place where she lived in Caracas⁵. He is

² In particular, the petition was lodged on 12 November 2007 by Linda Loaiza López Soto and her lawyer Juan Bernardo Delgado Linares. The Inter-American Commission firstly expressed the admissibility of the case in Report No. 154 of 2010, and later, on 29 July 2016, it adopted the Merit report (No. 33/16). In this last decision, the Commission preliminarily assessed the fact reported by the petitioners and pointed out several recommendations addressed to the State of Venezuela, which did not reply to the Commission. Finally, on 2 November 2016, the Commission submitted the case to the Inter-American Court of Human Rights through the Letter of submission to the Executive Secretary of the Court.

³ IACtHR, *Case of López Soto et al. v. Venezuela*, cit., para. 1.

⁴ Hereinafter also "the Inter-American Court" or "the IACtHR" or "the Court of San José".

⁵ For an in-depth look at the facts, see the book authored by the protagonist of this tragic story, L. Kislinger - L. Loaiza, *Doble Crimen: Tortura, esclavitud sexual e impunidad en la historia de Linda Loaiza*, Caracas, 2021. In addition, the case sparked media outcry in Venezuela, as shown by some press articles, above all, see P. Destacado, *Linda Loaiza consiguió primera condena por violencia de género contra Venezuela*, in *Acceso a la Justicia*, 29 November 2018; J. Ross, *After 17 Years, Venezuelan Survivor Finally Wins Justice*, in

the son of Gustavo Luis Carrera, who was the former Rector of a public university in Venezuela.

She was deprived of her freedom in March 2001 for roughly four months and was subjected to innumerable acts of harm to her dignity during that time. More precisely, she was continually subjected to all sorts of abuse and torture, such as physical, verbal, psychological and sexual maltreatment. In addition, she was forced to take narcotics, watch pornographic films, and remain naked for long periods of time.

Quoting the words of the victim, the abuser «penetrated [her] anus and vagina with a whisky bottle, he enjoyed this, he laughed, he was very pleased with everything he did; [...] he put out cigarettes on [her] face, burned [her] with the embers, and beat [her] constantly»⁶.

All this cruelty and torture was inflicted by the abductor who always had a gun with him and threatened to kill her and her family. Whenever he went out, she remained in his apartment handcuffed to stop her from escaping.

Moreover, to prevent neighbors becoming suspicious of her continuous screaming, he told them they were engaged and were going through a crisis that they were resolving.

After her abduction, her family immediately started looking for her and a few days later they received a call from an unknown person who said that Linda Loaiza López Soto would never come back. After discovering that the number was Luis Antonio Carrera Almoína's, her sister (Ana Secilia López Soto) went to the police several times to report her disappearance and the name of the abductor.

As will be explained in more detail in the next section, the police initially refused to accept the complaint because they believed it was a private matter for the couple. This was the reason for the considerable delay in the intervention of the public authorities.

The unlawful violation of the individual freedom of Linda Loaiza López Soto ended on 19 July 2001, when she was left alone in the house and managed to ask for help from the neighbors who called the police. The authorities arrived very quickly and broke into the apartment and released the girl.

In the years following her release, she was subjected to numerous reconstructive surgeries on her injured body parts (*i.e.*, lips, nose, ear, genital organs) which, among other things, prevented her from testifying during the first period of the investigations. She also suffered from post-traumatic stress syndrome.

After her rescue, a criminal investigation was initiated, which saw the abductor charged with the crimes of deprivation of liberty, aggravated attempted murder and rape. To these charges were added the offenses of impeding and obstructing the

WOMEN'S eNews, 28 nov 2018; J. Piñero, "Yo también fui víctima de Luis Carrera Almoína", in *El Estímulo*, 12 March 2021.

⁶ IACtHR, *Case of López Soto et al. v. Venezuela*, cit., para. 64.

execution of the judicial proceeding by fraud, due to the attempt to escape when the court issued his preventive detention.

The proceeding at first instance lasted several years and its excessive duration was the result of repeated postponements (almost twenty-nine times). It ended on 5 November 2004, with the judgment⁷ of acquittal of all charges. The Court recognized that Linda Loaiza López Soto underwent all acts of physical and psychological violence, but the evidence was insufficient to demonstrate Carrera Almoína's responsibility.

The acquittal verdict was partially reversed by the Seventh Chamber of the Appellate Court of Caracas⁸, which convicted the defendant of the crimes of deprivation of liberty and grievous bodily harm but acquitted him of the crime of rape. The victim appealed this acquittal, but the appeal was dismissed⁹. In May 2008, the sentence was pronounced served¹⁰.

Lastly, in 2016 the Constitutional Chamber of the Supreme Court of Justice¹¹ issued a review of the proceedings regarding the crime of rape, which is still pending.

As has already been mentioned, after the appeal ruling, in November 2007 the claimant proposed a petition to the Inter-American Commission of Human Rights, which first declared the petition admissible and produced a report on the merits of the alleged violations carried out by the Venezuelan State. Following the respondent State's failure to respond, on 2 November 2016 the Commission submitted the case to the Inter-American Court of Human Rights.

3. State Responsibility for Acts Committed by Private Individuals in Cases of Violence against Women

As is well known, only the State's responsibility falls within the IACtHR's jurisdiction¹². It firstly means that the acts have been committed in the territory of the

⁷ Twentieth Trial Court of the Caracas Metropolitan Area, judgment ruled on 5 November 2004. The decision was subject to many criticisms, and among the critical opinions there were the statements of the National Assembly of Venezuela that on 26 November 2004 publicly rejected the acquittal verdict. More details at para. 91 of the IACtHR's judgment in the *Case of López Soto et al. v. Venezuela*, cit.

⁸ Seventh Trial Court of Caracas Metropolitan Area, judgment ruled on 22 May 2006.

⁹ See the two decisions of inadmissibility delivered by the Sixth Chamber of the Appellate Court of the Caracas Metropolitan Area and then, the Contingent Criminal Cassation Chamber of the Supreme Court of the Bolivarian Republic of Venezuela on 11 May 2007.

¹⁰ Cf. the decision of the Sixth Court for Execution of Judgments of the Caracas Metropolitan Area, adopted on 8 May 2008.

¹¹ Resolution of the Constitutional Chamber of the Supreme Court of the Bolivarian Republic of Venezuela on 15 December 2016.

¹² Cf. J.M. Pasqualucci, *The Practice and Procedure of the Inter-American Court of Human Rights*, New York, 2013, p. 117 ff.

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State that belongs to the Inter-American system for the protection of human rights (IAHRS), and that it has accepted the jurisdiction of the Court.

In addition, a further prerequisite for triggering the international responsibility of a State is that the violations must be directly carried out by that State (*i.e.*, by a state power, body, or authority). Thus, in theory, the State is not responsible for acts by individuals who live in the territory of the State.

Exceptions to this general rule exist, and it is precisely on them that the Court rest in the first part of its reasoning. Specifically, it is devoted to the identification of the scope of its assessments, which could lead to the recognition of the international responsibility of Venezuela for the wrongful acts committed by private individuals.

The Court states that the first obligation that arises from the American Convention is the double duty «to *respect* the rights and freedoms recognized herein and to *ensure* to all persons subject to their jurisdiction [...]» (article 1, emphasis added).

Respect and *protect* are the two sides of the same coin.

On the one hand, the State is required to refrain from conduct adversely affecting the rights and freedoms guaranteed by the Convention (negative obligation). On the other, there is the obligation, addressed to State authorities, to ensure the full enjoyment of such rights and freedoms (positive obligation).

As scholars have observed, the distinction between these two types of obligations also has an impact on the legal consequences produced by their violation. Indeed, a negative obligation corresponds to an international tort of a commissive nature, while a positive obligation leads to a responsibility for an omissive tort¹³.

Alongside this distinction, article 2 of the American Convention holds particular significance in defining when a state can incur in international responsibility for failing to respect and ensure the human rights established in the Convention. It imposes on each State Party the duty to enact all legislative measures as may be necessary to fully grant the fundamental rights established in the Convention¹⁴. This means that the state must at the same time remove national rules that conflict with human rights and ensure that existing rules effectively protect those rights¹⁵.

¹³ A. Bonfanti, *Imprese multinazionali, diritti umani e ambiente. Profili di diritto internazionale pubblico e privato*, Milan, 2012, p. 48.

¹⁴ Specifically, according to Article 2, «[w]here the exercise of any of the rights or freedoms referred to in Article 1 is not already ensured by legislative or other provisions, the States Parties undertake to adopt, in accordance with their constitutional processes and the provisions of this Convention, such legislative or other measures as may be necessary to give effect to those rights or freedoms».

¹⁵ In that sense, from the very beginning, the IACtHR, *Case of Velásquez-Rodríguez v. Honduras*, 29 July 1988, para. 166-167. On the case, see S.M. Witten, *Velásquez Rodríguez Case*, in *The American Journal of International Law*, 83, 2, 1989, p. 361 ff.

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In the case in point the exception to the international irresponsibility, mentioned above, is strictly related to the State's omission¹⁶ in avoiding and promptly prosecuting the violation. Hence, the field of positive obligation should be investigated in detail.

The combined provisions of Articles 1 and 2 supports the idea of promoting human rights and avoiding their violation through any legal, political, administrative, and cultural measures. Accordingly, for each tortious act, there is both a sanction and appropriate reparation for the victim¹⁷.

In this way, according to the IACtHR «the obligation to *ensure* rights supposes the obligation of States to *prevent* human rights violations, even those committed by private third parties», consequently, this latter obligation «is one of means or conduct and [its] non-compliance is not proved by the mere fact that a right has been violated»¹⁸.

Indeed, since in the case of *Velásquez-Rodríguez v. Honduras* (1989), « [a]n illegal act which violates human rights and which is initially not directly imputable to a State (for example, because it is the act of a private person or because the person responsible has not been identified) can lead to international responsibility of the State, not because of the act itself, but because of the lack of due diligence to prevent the violation or to respond to it as required by the Convention»¹⁹.

Velásquez-Rodríguez v. Honduras represents a leading case and the legal principles set out therein will be confirmed even in subsequent cases. However, it is important to point out that certain facts are different from the present situation. The case concerned a phenomenon of enforced disappearances which were widespread in Honduras, and on which subject the IACtHR itself has repeatedly ruled²⁰. As far as this is concerned, the Court considers that the disappearances were in the hands of members of the State Police, which prevents defining the kidnappers *sic et simpliciter* as private individuals. In those situations, the State is immediately responsible for the wrongful act perpetrated by its Armed Force. Nevertheless, the State was convicted for failing to prevent and rightly prosecute the perpetrators of the disappearances.

This distinction, which also bases profound differences on the responsibility of the State, designates the multiple situations in which the State can be held accountable for an omissive tort. Thus, the position of a public official and a private person is assimilated in the case of a breach of the Convention: The State should nevertheless stop the violation.

¹⁶ For an in-depth study of the issue of the State International Responsibility for omissive acts in IACtHR case law, see M. Barón Soto - A. Gómez Velásquez, *An approach to the state responsibility by an omission in The Inter- American Court of Human Rights Jurisprudence*, in *Revista CES Derecho*, 6, 1, 2015, p. 3 ff.

¹⁷ IACtHR, *Case of López Soto et al. v. Venezuela*, cit., para. 129.

¹⁸ *Ivi*, para. 130.

¹⁹ IACtHR, *Case of Velásquez-Rodríguez v. Honduras*, cit., para. 172.

²⁰ See IACtHR, *Case of Godínez-Cruz v. Honduras*, 20 January 1989 and *Case of Fairén-Garbi and Solís-Corralles v. Honduras*, 15 March 1989.

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Another example is worthy of mention. In the advisory opinion of 17 September 2003²¹, requested by the United Mexican States on migrant workers, the Court restated that no difference can be established in ensuring and protecting labor rights of migrants whether their employment relationships are under public or private law. This means that the State must protect migrants in every case.

Another aspect to be considered is the conduct related to the *due diligence* duty.

To better understand this, we could refer to the first UN Guiding Principles on Business and Human Rights²², which declares similarly the *duty to protect* when the abuse of human rights carried out by third parties (in particular, business enterprises)²³. The commentary on this principle specifies that in the case of obligation of means, «[s]tates are not *per se* responsible for human rights abuse by private actors. However, States may breach their international human rights law obligations where such abuse can be attributed to them, or where they fail to take appropriate steps to prevent, investigate, punish, and redress private actors' abuse».

Therefore, if a State does not adopt all the adequate measures to prevent the gross violation of human rights, it will be equally responsible when its private citizen concretely commits these infringements.

Basically, the Inter-American Court endorses the view of the *horizontal effect of Treaties on human rights*²⁴, according to which the international responsibility needs a wide scope of application, also covering the gross violation conducted by private individuals through the "lens" of the State's responsibility in avoiding it.

After this theoretical premise, and before ascertaining the violation of this obligation in concrete terms, the Court defines specifically the scope of the obligation of due diligence in the case of gender violence²⁵.

²¹ IACtHR Advisory Opinion OC-18/03, 17 September 2003, requested by The United Mexican States on the Juridical Condition and Rights of Undocumented Migrants.

²² ... according to which «States must protect against human rights abuse within their territory and/or jurisdiction by third parties, including business enterprises. This requires taking appropriate steps to prevent, investigate, punish and redress such abuse through effective policies, legislation, regulations and adjudication». To delve into issues surrounded the *duty to protect* see A. Bonfanti (eds.), *Business and Human Rights in Europe International Law Challenges*, New York and London, 2019, the essays included in the Part I of the book.

²³ Among the IACtHR's case-law in the field of Business and Human Rights, see *Case of the Workers of the Fireworks Factory in Santo Antônio De Jesus and their Families v. Brazil*, 15 July 2020. For an in-depth analysis of the case mentioned and on the other relevant case-law of the IACtHR on slavery, see N. Boschiero, *Giustizia e riparazione per le vittime delle contemporanee forme di schiavitù. Una valutazione alla luce del diritto internazionale consuetudinario, del diritto internazionale privato europeo e dell'agenda delle Nazioni Unite 2030*, Turin, 2021, p. 147 ff.

²⁴ The literature on the *horizontal effect* of the international human rights law is particularly wide, among others, see P. Alston (eds.), *Non-State Actors and Human Rights*, Oxford, 2005.

²⁵ For detailed analysis of positive obligation on women's violence in the case-law of the ECtHR and IACtHR, see S. De Vido, *Violence against women's health in international law*, Manchester, 2020, p. 197 ff.

In this regard, it is interesting to note that the Court of San José adopts a *comprehensive notion* of the State's obligations, which firstly consist in the provision of an adequate legislative framework that establishes effective sanctions for those who commit such crimes against women. Secondly, State policies and practices must be effectively applied in prosecuting those accused of committing these violations, and as a result, reports are duly considered.

Thereby, "comprehensive strategy" implies, *a priori*, the enactment of a good system of laws aiming at preventing the phenomenon of violence, and, *a posteriori*, the proper functioning of this legal system when these events have taken place. Only in this way can the duty to protect be satisfied.

This dual perspective is underpinned by the idea that gender stereotypes are both the cause and the consequence of violence against women.

Furthermore, from a hermeneutical point of view it is important to underline that the Court establishes the content of this obligation through a joint reading of the more "general" articles of the American Convention (in particular, articles 4 and 5, the right to life and respect for physical integrity) and article 7 of the Convention of Belém do Pará, which instead places specific repressive obligations on the persisting phenomenon of violence against women.

Lastly, it is now necessary to understand when it is possible to invoke this State's responsibility for acts committed by private individuals. The Court applies the *Test* already experimented in the judgment *Pueblo Bello Massacre v. Colombia*²⁶, which recalls the so-called *Osman Test* laid down by the European Court of Human Rights²⁷, and applied in several cases, such as *Talpis*²⁸. The *Pueblo Bello Massacre Test* consists of the verification of two elements:

²⁶ IACtHR, *Case of Pueblo Bello Massacre v. Colombia*, 31 January 2006, where «[...] the Court acknowledges that a State cannot be responsible for all the human rights violations committed between individuals within its jurisdiction. Indeed, the nature *erga omnes* of the treaty-based guarantee obligations of the States does not imply their unlimited responsibility for all acts or deeds of individuals, because its obligations to adopt prevention and protection measures for individuals in their relationships with each other are conditioned by the awareness of a situation of real and imminent danger for a specific individual or group of individuals and to the reasonable possibilities of preventing or avoiding that danger. In other words, even though an act, omission or deed of an individual has the legal consequence of violating the specific human rights of another individual, this is not automatically attributable to the State, because the specific circumstances of the case and the execution of these guaranteed obligations must consider» (para. 123).

²⁷ Interesting insights on the comparison between these two Courts are offered by R. Romboli - A. Ruggeri (eds.), *Corte europea dei diritti dell'uomo e Corte interamericana dei diritti umani: modelli ed esperienze a confronto*, Torino, 2019.

²⁸ In *Osman v. United Kingdom* (judgment ruled on 28 October 1998, No. 23452/94), the ECtHR (para. 116) on the assumption according to which «the unpredictability of human conduct and the operational choices which must be made in terms of priorities and resources, [states that] such an obligation must be interpreted in a way which does not impose an impossible or disproportionate burden on the authorities». Accordingly, it fixes the two conditions, which are: (1) «the authorities knew or ought to have known at the time of the existence of a real and immediate risk to the life of an

(i) the State authorities knew, or should have known, of the existence of a real and immediate risk to the life and/or personal integrity of a particular individual or group of individuals, and

(ii) those authorities failed to take the necessary steps within their powers that could reasonably be expected to prevent or avoid that risk.

The Court concludes the Test cited in affirmative terms, and in doing so by emphasizing the fact that the sister of the victim had repeatedly gone to the police (six times), even indicating the name and address of the abductor, but she was ignored by them, so much so that in one of the first depositions the police officer had told her that with her complaint «she was interfering in the life of the couple».

Hence, on this issue the Court concludes in the sense of the violation of the above-mentioned provisions of the American Convention and the Convention of Belém do Pará, considering the Venezuelan State not directly responsible for the atrocities suffered by Linda López Soto, but for the «insufficient and negligent reaction of its agents»²⁹.

4. State Duties for Sexual Slavery and Torture in the Context of Violence against Women

After having explored the State's responsibility in the case of the violation of women's fundamental rights perpetrated by a private individual, the Court then delves into the "specific" State's obligation to protect its women against sexual slavery and torture.

Despite the material conduct being largely the same for these two duties, the Court has decided to assess their hypothetical infringement separately.

Both the notions of torture and slavery have an autonomous field of application, which is wider than that one being investigated in this present judgement by the Court. In this view, it is relevant to highlight how these interweave with the more specific phenomenon of violence against women.

identified individual or individuals from the criminal acts of a third party»; (2) «they failed to take measures within the scope of their powers which, judged reasonably, might have been expected to avoid that risk». In *Talpis v. Italy* (judgment ruled on 2 November 2017, No. 41237/14) it is specified that «the risk of a real and immediate threat (...) must be assessed taking due account of the context of domestic violence. In such a situation it is not only a question of an obligation to afford general protection to society». On this topic, see I. Pellizzone, *Positive Obligation, Due Diligence of the State and Outcomes of the Osman Test in Matter of Gender-Based Violence Cases*, in M. D'Amico - C. Nardocci (eds.), *Gender-Based Violence between National & Supranational Responses: The Way Forward*, Napoli, 2021, p. 165 ff.; M. Buscemi, *La protezione delle vittime di violenza domestica davanti alla Corte europea dei diritti dell'uomo. Alcune osservazioni a margine del caso Talpis c. Italia*, in *Osservatorio sulle fonti*, 3, 2017; S. De Vido, *States' Positive Obligations to Eradicate Domestic Violence: The Politics of Relevance in the Interpretation of the European Convention on Human Rights*, in *ESIL Reflections*, 6, 6, 2017.

²⁹ See para. 169 of the IACtHR's judgment in the *Case of López Soto et al. v. Venezuela*, cit.

In other words, the main issue at stake deals with the peculiar character assumed by torture and slavery when the person who is subjected to them is a woman. What does it change?

4.1 Sexual Slavery

With special reference to slavery, the Court finds its relevance in the *sexual* perspective. Its prohibition is established in Article 6 of the American Convention, entitled «freedom from slavery», and its first paragraph states that: «[n]o one shall be subject to slavery or to involuntary servitude, which are prohibited in all their forms, as are the slave trade and traffic in women».

The provision generally expresses the prohibition of slavery and human trafficking. However, it does not specify a clear definition of slavery, not even when this is specifically intended as 'sexual'.

In the *Case of Hacienda Brasil Verde Workers v. Brasil*³⁰, the Court specified that for slavery to occur a subject (the enslaver) must exercise a power or control over another subject (the enslaved) such that the personality and freedom of the latter are completely compromised.

According to this definition, we can speak of the exercise of a *property right* on the part of the enslaver, which has multiple manifestations, including the restriction or complete control of an individual's autonomy; or the restriction or deprivation of freedom of movement; the absolute lack of consent; the use of physical force, psychological pressure; or taking advantage of a position of vulnerability.

In the case under investigation here, sexual slavery is seen by the Court of San José as a particular form of sexual violence, and its definition always implies the idea of the exercise of property over the woman, to which is added in this specific situation the limitation of sexual autonomy and the pervasiveness in the sphere of control of the other person.

In other terms, what connotes the "sexual" nature of slavery as an autonomous category is precisely that specific historically inherent stereotype in society, which disproportionately sees women as subordinate to men.

In addition, the Court points out that about these behaviors we are facing obligations of an immediately binding nature (i.e., *jus cogens*), the application of which by the States is not subject to any discretion, since in any case they cannot make exceptions³¹.

³⁰ See IACtHR, *Case of Hacienda Brasil Verde Workers v. Brasil*, 20 October 2016, in particular paras. 269-273.

³¹ On the *erga omnes* effect of *jus cogens* on the prohibition of slavery, see insights into N. Boschiero, *op. cit.*, p. 37 ff.

Specifically, the elements described above concur in considering whether there has been a violation of the obligation of sexual slavery. In fact, the Court first questions the existence of the so-called “right to property” in the sense above mentioned. Secondly, whether there have been sexual acts that limit the sexual autonomy of the woman either completely or partially.

The use of repeated acts of extreme violence, in conjunction with the exercise of meaningful forms of control and possession lead to a declaration of the existence of the infringement at stake. Furthermore, in this *compositum* system of protection, Article 6, paragraph 1, is the “keystone” which is read in conjunction with other norms of the Convention, which details the gross violation at stake. Those provisions are Articles 1(2), 3, 5, 7, 11, and 22, and they entail the prohibition of any kind of deprivation of physical liberty, the right to privacy and free movement.

As a result, the joint interpretation of those provisions generates an intrinsic connection between personal and psychological integrity, on the one side, and personal autonomy and the possibility to freely take decisions concerning one's own body and sexuality on the other. All these aspects related to personal integrity are totally defeated in the case of sexual slavery, whereby through sexual violence the abuser forces a woman to change the immediate condition of her existence³².

In the gender violence perspective, the idea of focusing the attention on the “sexual” nature of violence allows us to concentrate on the discriminatory intent of the abductor, which underpins the stereotypes of men's superiority over women³³.

4.2 Torture

The second duty that is ascertained deals with torture³⁴.

Looking at the relevant legislation on this crime, it is possible to see that in its first paragraph, Article 5 of the American Convention³⁵ establishes, in general, the right to personal, physical, and moral integrity, while in paragraph 2, in more specific terms, it sanctions the absolute prohibition of torture and inhuman and degrading acts³⁶.

³² On the definition of sexual slavery see, K. Barry, *Female Sexual Slavery: understanding the International Dimensions of Women's Oppression*, in *Human Rights Quarterly*, 3, 2, 1981, p. 48.

³³ Cf. P. Di Nicola, *La mia parola contro la sua. Quando il pregiudizio è più importante del giudizio*, Milano, 2018.

³⁴ Looking at the Italian system, the Italian Court of Cassation recently intervened on the relationship between the crimes of torture (article 613-*bis* of the penal code) and ill-treatment (article 572 of the penal code), holding that both can be applied to the same case, thus resulting in a material concurrence of crimes (Judgments of the III section, No. 32380, 25 May 2021).

³⁵ For a detailed study of the IACtHR's case-law on sexual torture, see I. Spigno - F.G. Ruz Dueñas, *op. cit.*, p. 137 ff.

³⁶ In this regard, also article 6 is relevant: «[...] the States Parties shall take effective measures to prevent and punish torture within their jurisdiction.

Within the international law context, even the prohibition of torture has been established in a rule of *jus cogens*³⁷.

As far as the constitutive elements of the case are concerned, these are not specified in Article 5, paragraph 2, but are introduced on a theoretical basis by the Court, which makes explicit reference to Article 2 of the Inter-American Convention on the Prevention and Punishment of Torture ("ICPPT").

In this perspective, conducts that constitute an act of torture must result in mistreatment that is: (1) intentional, (2) caused physical and mental suffering, (3) and committed with a definite goal or purpose.

With reference to these three elements the Court states that: «[b]ased on the evidence provided, the Court finds that the gravity and intensity of the severe physical, verbal, psychological and sexual abuse suffered by Linda Loaiza has been proved (...); that this was perpetrated intentionally and persisted for almost four months when she was in a situation of total helplessness and under the control of her aggressor. In addition, it has been established that she was subjected to reiterated rape, an extremely traumatic experience that has severe consequences and causes great physical and mental harm leaving the victim 'physically and emotionally humiliated'. In this regard, the Court has affirmed that the severe suffering of the victim is inherent in rape, and, in this case, it was accompanied by extremely severe bodily injuries and physical ailments. The Court also notes that the victim stated that her aggressor showed her photographs of other women who he had subjected to the same treatment, which constituted a form of threat that had a significant psychological impact»³⁸.

On this point, the Court further observes that «the evidence received reveals that the aggressor's purpose was to intimidate her, obliterate her personality and subjugate her. Ultimately, it was to assert a position of domination over women and assert his relationship of power and patriarchal domination over the victim, which demonstrated the discriminatory purpose. In this regard, the Court has emphasized the significant role played by discrimination when examining violations of women's human rights and its alignment with torture and ill-treatment from a gender perspective. Consequently, the Court finds that Linda Loaiza was subjected to acts of physical, sexual, and psychological torture, in keeping with the three elements that the Court has enumerated and in the terms of article 5(2) of the American Convention»³⁹.

The States Parties shall ensure that all acts of torture and attempts to commit torture are offenses under their criminal law and shall make such acts punishable by severe penalties that take into account their serious nature.

The States Parties likewise shall take effective measures to prevent and punish other cruel, inhuman, or degrading treatment or punishment within their jurisdiction».

³⁷ For a detailed reconstruction from an international perspective of the prohibition of torture, A. Edwards, *Violence against Women under International Human Rights Law*, New York, 2011, p. 198 ff.

³⁸ IACtHR, *Case of López Soto et al. v. Venezuela*, cit. para.187.

³⁹ *Ivi*, para. 188.

In other words, torture was committed, and its purpose identified by the Court is not only in the intent to intimidate but also that of the idea of assuming a position of domination (to be precise, *patriarchal domination*) over women, thus confirming the conception that those violent behaviors are “gender based”, that is, to be seen from a gender perspective.

Another aspect to highlight regarding torture concerns the issue of State immutability. Hence, how responsibility for acts of torture can be assigned to the Venezuelan State, given that the torture was not committed by the State authorities. Indeed, the Court of San José⁴⁰ stressed that Article 3 ICPPPT specifies that the following can be guilty of the crime of torture «[a] public servant or employee who acting in that capacity orders, instigates or induces the use of torture, or who directly commits it or *who, being able to prevent it, fails to do so*» (emphasis added). This means that public authorities can be responsible for this crime even in the case they are not the authors of acts of torture but fail in preventing them.

The reasoning that the Court makes on this point is not dissimilar to that made for the obligation of due diligence. In fact, the Court argues that even in this case the State should have prevented the commission of similar acts as far as possible, which, moreover, hinder an effective fight against the eradication of the phenomenon of gender violence.

In short, the Court endorsed a *systemic* and *evolutive* interpretation of the above-mentioned provisions, through a gender lens⁴¹.

In this regard, it specifies that the obligations deriving from the Convention of Belém do Pará would suffer a compression if it were admitted that an act of violence against a woman (also qualifying as torture) is not punishable if committed by a private citizen. Therefore, vice versa, it is as if the overlapping of violent conducts and those culminating in torture against women are punishable only if carried out by public authorities.

For these reasons, even with reference to torture, the Court concludes in the sense of Venezuela's responsibility.

Lastly, we can also see that according to the Court of San José, the definition of the crime of torture established in article 182 of the Venezuelan Criminal Code is inadequate. This provision lays down that: «[s]uffering, offenses against human dignity, ill-treatment, torture or physical or moral abuse committed against a person who is detained by his custodians or prison guards, or the person who gives the order to execute such treatment, in contravention of the individual rights recognized in paragraph 3 of article 60 of the Constitution, shall be punished by 3 to 6 years' imprisonment»⁴².

⁴⁰ *Ivi*, paras. 190-191, where the Court recalls General Comment No. 2 of the UN Committee against Torture, adopted on 24 January 2008, on the *Implementation of Article 2 by States Parties*.

⁴¹ I. Spigno - F.G. Ruz Dueñas, *op cit.*, p. 163 ff.

⁴² IACtHR, *Case of López Soto et al. v. Venezuela*, cit., para. 251

The Court⁴³ highlighted three critical elements. The first one deals with the fact that this norm does not specify the elements that constitute what are the acts and purposes of criminal conduct are. Secondly, the point is omitted regarding public authorities as being among those who can commit this crime. Finally, the punishment (3 to 6 years) is too low compared to the nature and gravity of the crime.

5. The Obstacles to the Access to Justice and the Risk of Revictimization

The Inter-American Court assessed the international responsibility of Venezuela even for failing to guarantee Ms. López Soto equal access to justice.

The legal framework of this right can be deduced by the provisions of the American Convention, which impose “general” obligations that should be read in conjunction with the “special” duties described in the Convention of Belém do Pará.

More precisely, the general obligation can be found in articles 25, 8 and 1, paragraph 1 of the American Convention. Article 25 (entitled, «Right to Judicial Protection») ensures «the right to simple and prompt recourse, or any other effective recourse, to a competent court or tribunal for protection against acts that violate his fundamental rights recognized by the constitution or laws of the state concerned or by this Convention», whereas article 8 (entitled «Right to a Fair Trial») specifies that the effective judicial remedies must be in compliance with the rule of due process of law.

In the Court's opinion, these obligations are reinforced by article 7, paragraph 1, of the Convention of Belém do Pará, which expressly sets down the need «to pursue, by all appropriate means and without delay, policies to prevent, punish and eradicate such violence». Among the «all appropriate means» in the following lines the same norm includes adequate legislative measures to fight the phenomenon of violence (letter e)), the respect of the duty to protect by authorities, officials, personnel, agents, and institutions (letter a)), and a «fair and effective legal procedures for women who have been subjected to violence» (letter f)).

Within this legal framework, the Court highlights that these provisions aim at removing the obstacles and restrictions that women face when they have «recourse to the state authorities that impede the effective realization of their access to justice».

In the light of this assumption, the Court adds that: «the absence of *gender training* and awareness of the state agents in the institutions involved in the investigations and the administration of justice, as well as the *existence of stereotypes* that detract from the credibility of the statements made by women victims, constitute fundamental factors that, together with the high rates of impunity in cases of this nature, lead women to decide not to report acts of violence or not to continue with the legal proceedings undertaken. To these factors should be added the lack of access to *quality legal assistance* and the *services* able to provide social assistance and care to victims, and the failure of

⁴³ *Ivi*, paras. 253-256.

the state authorities who intervene in this type of incident to adopt immediate measures of protection»⁴⁴.

Thus, the Court's reflections on access to justice address the cultural perspective of the phenomenon, thereby intending to provide a wide-ranging view of the State's obligation to protect women from violence.

In fact, it is necessary to provide rules that make it possible to conduct effective investigations, conclude criminal proceedings within a reasonable timeframe and to properly punish the perpetrators of gender-based crimes. Additionally, it is also essential to intervene in the field of training, providing preparation for all operators who act in the post-violence phase, such as police officers and doctors. To this end, the Court stresses that specific protocols must be envisaged to indicate what the most suitable and proper behaviors to adopt are.

Reflecting on the words of the expert⁴⁵ heard by the Inter-American Court during its proceedings, it is essential the agents of justice adopt «an *approach centered on the victims*», according to which they «must prioritize the safety, privacy and well-being of the victims, verifying the risks, the conditions of special vulnerability, and the differentiated needs they may have to ensure their effective participation in the investigation and in the eventual criminal proceedings».

The objective is to avoid the negative effects of revictimization, the existence of which is due to the permanence of sexist stereotypes in society, having the effect of minimizing the importance of a phenomenon that is still all too widespread.

On the issue of stereotypes, the Court recalls an instructive recommendation of the CEDAW Committee⁴⁶, where they are defined as «distorts perceptions and results in decisions based on preconceived beliefs and myths rather than relevant facts, [which may lead to the denial of justice, *adds the Court*], including the revictimization of complainants».

For example, stereotypes can affect the objectivity of State agents during the investigation, by undermining the credibility of the woman who subjected to violence. Or this could occur by including inappropriate comments about the woman's life in the judges' rulings. This issue was the subject of the recent judgment of the European Court of Human Rights in the case of *J.L. v. Italy*⁴⁷. The European Court assessed the

⁴⁴ *Ivi*, para. 220 (emphasis added).

⁴⁵ We refer to the opinion of Daniela Kravetz pronounced during the public hearing before the IACtHR on 6 February 2018. See IACtHR's judgment in the *Case of López Soto et al. v. Venezuela*, cit., para. 221.

⁴⁶ UN Committee on the Elimination of Discrimination against Women (CEDAW), General Recommendation No. 33, adopted on 3 August 2015, on *Women's Access to Justice*.

⁴⁷ ECtHR, *J.L. v. Italia*, 27 May 2021, No. 5671/16, para. 141. The Author of this paper provides the English translation. For a comment, see P. Di Nicola, *La Corte EDU alla ricerca dell'imparzialità dei giudici davanti alla vittima imperfetta*, in *Questione giustizia*, 20 July 2021, and P. Gambatesa, *Il peso delle parole nelle sentenze. Note a margine di una importante decisione della Corte EDU in tema di vittimizzazione secondaria* (J.L. c. Italia, ricorso n. 5671/16), in *Osservatorio AIC*, 2, 2022, p. 232 ff.

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international responsibility of the Italian State in relation to its obligations under Article 8 of the European Convention on Human Rights, which protects the right to private and family life. In particular, the ECtHR stated that: «[i]t is therefore crucial that judicial authorities avoid reproducing sexist stereotypes in judicial decisions, minimizing gender-based violence, and exposing women to secondary victimization by using blaming and moralizing statements that discourage victims' trust in justice»⁴⁸.

In conclusion, quoting an extremely relevant statement of the Inter-American Court, «when the State fails to take concrete actions to eradicate stereotypes, it reinforces and institutionalizes them, which generates and reproduces violence against women»⁴⁹.

6. Final Remarks: Preventing and Fighting Violence against Women by Combining the Several Levels of Protection

The Inter-American Court unanimously found the Venezuelan State to be in serious breach of its obligations in the case of Ms. López Soto. To provide compensation for these violations, the Court ordered several reparation measures in accordance with article 63, paragraph 1, of the American Convention. There are approximately twenty such measures⁵⁰, some of which were ordered in favor of Ms. López Soto and her family, while others were aimed at implementing new laws and practices in the respondent State to combat the phenomenon of violence more effectively.

Among the measures expressly devoted to Ms. López Soto, we find the requests to conclude the pending proceedings within a reasonable time and to initiate investigations to identify, and then possibly punish, the abuser of the non-convicted crimes (such as rape and sexual slavery) and the State agents who made mistakes during the investigation.

In addition, as rehabilitation and satisfaction measures, the Court requires the provision of all expenses for medical and psychological treatment for the applicant and all the members of her family and provides for the payment of scholarships for their

⁴⁸ IACtHR, *Case of López Soto et al. v. Venezuela*, cit., para. 141.

⁴⁹ *Ivi*, para. 236.

⁵⁰ On the “holistic” gender-sensitive approach on reparations see, R. Rubio-Marín - C. Sandoval, *Engendering the Reparations Jurisprudence of the Inter-American Court of Human Rights: The Promise of the Cottonfield Judgment*, in *Human Rights Quarterly*, 33, 2011, p. 1062 ff. In particular, the Authors focus their work on the cases *González et al. (“Cotton Field”) v. Mexico* (2009) and *Miguel Castro-Castro Prison v. Peru* (2006), both ruled by the IACtHR. See this issue on I. Spigno, *Gender violence against low-income women in Mexico. Analysis of the Inter-American doctrine*, in *Rivista di Diritti Comparati*, Special Issue I, 2019, p. 167 ff., and A. Baraggia, *Transformative Constitutionalism and the Inter-American Jurisprudence on Violence Against Women*, in M. D’Amico - C. Nardocci (eds.), *Gender-Based Violence between National & Supranational Responses: The Way Forward*, cit., p. 19 ff.

future studies. Finally, substantial sums are awarded to her for the pecuniary and non-pecuniary damages suffered.

Besides these measures, the Inter-American Court takes the chance to impose specific duties on Venezuela, to implement more pragmatic public policies to combat the phenomenon of gender-based violence. Firstly, notwithstanding the fact that the State enacted a special law on the Right of Women to a Life Free of Violence⁵¹, the Court notes that Venezuela left some gaps in implementing it. This would require a new regulation that achieves the real aim of the special law by, above all, ensuring the adequate functioning of the special courts for prosecuting crimes against women in each state and implementing conduct protocols for the investigation and assistance for women who suffer from violence.

The measures explicitly addressed to Venezuela, which require compulsory legislative intervention, are also of particular importance in the light of the State's controversial position within the Inter-American system of human rights.

As is known, on September 2012⁵² Venezuela announced its withdrawal from the American Convention, pursuant to its article 78, thereby waiving the legal jurisdiction of the Inter-American Court⁵³.

It is important to clarify that the case investigated, although after the notification, is not affected by the same as it refers to events that occurred before the withdrawal, so when the Convention was fully in force for Venezuela⁵⁴.

⁵¹ Organic Law on the Right of Women to a Life Free of Violence, 23 April 2007, Official Gazette Nos. 38, 668.

⁵² The Bolivarian Republic of Venezuela announced on 6 September 2012 its intention to denounce the American Convention on Human Rights, available at this link: http://www.oas.org/DIL/Nota_Rep%C3%BAblica_Bolivariana_Venezuela_to_SG.English.pdf. On the effect of the Venezuela communication see the Press Release of the Inter-American Commission on Human Rights on 10 September 2013, titled «IACHR Deeply Concerned over Result of Venezuela's Denunciation of the American Convention», available at this link: https://www.oas.org/en/iachr/media_center/preleases/2013/064.asp.

⁵³ Cf. A. Caligiuri, *Le conseguenze della denuncia della Convenzione americana dei diritti umani da parte del Venezuela*, in *Diritti Umani e Diritto Internazionale*, 7, 2013, p. 183-187.

⁵⁴ IACtHR, *Case of López Soto et al. v. Venezuela*, cit., para. 16. On the non-retroactive effect of the denunciation, *ex multis*, Inter-American Commission on Human Rights, *Balkissoon Roodal v. Trinidad and Tobago*, Case 12.147, Report No. 89/01, para. 23. «By the plain terms of article 78(2), states parties to the American Convention have agreed that a denunciation taken by any of them will not release the denouncing state from its obligations under the Convention with respect to acts taken by that state prior to the effective date of the denunciation that may constitute a violation of those obligations. A state party's obligations under the Convention encompass not only those provisions of the Convention relating to the substantive rights and freedoms guaranteed thereunder. They also encompass provisions relating to the supervisory mechanisms under the Convention, including those under Chapter VII of the Convention relating to the jurisdiction, functions, and powers of the Inter-American Commission on Human Rights. Notwithstanding Trinidad and Tobago's denunciation of the Convention, therefore, the Commission will retain jurisdiction over complaints of violations of the Convention by Trinidad and Tobago in respect of acts taken by that State prior to 26 May 1999. Consistent with established

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More to the point, in 2019 the denunciation was withdrawn by Venezuela⁵⁵, declaring that the Convention is again applicable and with it the competence of the Court. By agreeably specifying, that this second ratification has retroactive value, in this way they do not leave a gap of protection for all those violations of rights in the 2013-2019 period and that may be subject to appeal by the Court of San José.

The rethinking of the Venezuelan State is certainly to be welcomed, and particularly that idea expressed in the letter of 2013 according to which the “*Constitution is enough!*”. Consequently, the protection of fundamental rights and freedom *are safe*, even without an International Treaty on human rights.

The Author does not share this thesis, and the *López Soto v. Venezuela* affair strengthens that belief.

We can appreciate the extremely important role of the international organizations⁵⁶ in the fight against women's violence within each State belonging to them, thus increasing the standards of protection of the victims. The general change is due to the implementation and renewal duties of national legislation imposed by International Conventions devoted to this issue.

In this perspective, these obligations of the International Law of Human Rights favor and accelerate the process of adopting new, or even better than the existing “hard” laws on fundamental rights in national legal orders⁵⁷.

Those legal instruments show that women are at the core of the international safeguard⁵⁸. They often offer all-encompassing visions of the phenomenon of violence by dealing not only with obligations to criminalize offenders but also with provisions on prevention and legal protection. Furthermore, these Treaties, such as the *Istanbul Convention*⁵⁹ and the *Convention of Belém do Pará* are increasingly becoming a *living*

jurisprudence, this includes acts taken by the State prior to May 26, 1999, even if the effects of those acts continue or are not manifested until after that date».

⁵⁵ The Bolivarian Republic of Venezuela lodged the instrument of ratification to the Inter-American Convention on Human Rights on 31 July 2019, text available at this link: http://www.oas.org/es/sla/ddi/docs/B-32_venezuela_RA_7-31-2019.pdf.

⁵⁶ More generally, under an historical perspective, on the role in safeguarding human rights of international and regional organizations, see F. Cantù, *Sistemi “regionali” per la tutela dei diritti dell'uomo: Il patto interamericano di S. José de Costa Rica*, in *Rivista di Studi Politici Internazionali*, 1989, p. 547 ff.

⁵⁷ On the direct impact on constitutional democracies of the provisions against gender-based violence, see T. Groppi, *Gender-Based Violence as a Challenge to Constitutional Democracy*, in M. D'Amico - C. Nardocci (eds.), *Gender-Based Violence between National & Supranational Responses: The Way Forward*, cit., p. 115 ff.

⁵⁸ On the approach «victim-centered and human rights-based» to fight against every kind of slavery, see the reflections of N. Boschiero, *op. cit.*, p. 322 ff.

⁵⁹ For an insightful study on the impact of the Istanbul Convention on the Italian legal system under Constitutional law perspective, see M. D'Amico, *Una parità ambigua. Costituzione e diritti delle donne*, Milano, 2020, p. 219 ff., and C. Nardocci, *Gender-Based Violence between the European Convention of Human Rights and the Istanbul Convention*, in M. D'Amico - C. Nardocci (eds.), *Gender-Based Violence between National & Supranational Responses: The Way Forward*, cit., p. 129 ff. In international law view, see S. De Vido, *The*

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instrument thanks to the evolutionary and systematic interpretation offered by the Supranational Courts proposed *ad hoc*.

In essence, a more effective protection of human rights can only be achieved through an effective complementarity between international and national legal systems.

Abstract: The paper analyzes the *López Soto v. Venezuela* judgment delivered on 26 September 2018 by the Inter-American Court of Human Rights. The case deals with a young woman who was raped and forced to undergo all sorts of violence (physical, sexual and psychological) and acts of torture for several months. The Court unanimously condemned Venezuela for the gross violation of human rights because it did not adequately protect Ms. López Soto from her abductor. The case offers an opportunity to reflect on the international obligations that lie with national authorities in preventing and fighting violence and torture against women, laid down in the main Conventions entrenched in the Inter-American system of human rights.

Abstract: Il presente testo analizza la sentenza *López Soto v. Venezuela* resa il 26 settembre 2018 dalla Corte interamericana dei diritti umani. Il caso riguarda una giovane donna rapita e costretta a subire diverse forme di violenza (fisica, sessuale e psicologica) e atti di tortura per diversi mesi. La Corte ha condannato all'unanimità il Venezuela per non aver impedito la realizzazione delle gravi violazioni dei diritti umani ai danni della signora López Soto da parte del suo rapitore. Il caso offre l'opportunità di riflettere sugli obblighi internazionali che gravano sulle autorità nazionali in materia di prevenzione e contrasto alla violenza e alla tortura contro le donne, sanciti nelle principali Convenzioni del sistema interamericano dei diritti umani.

Keywords: Gender-based Violence – Torture – Sexual Slavery – IACtHR – Effective protection and remedies.

Parole Chiave: Violenza di genere – Tortura – Schiavitù sessuale – IACtHR – Protezione e rimedi effettivi.

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Istanbul Convention as an interpretative tool at the European and national level, in J. Niemi - L. Peroni - V. Stoyanova (eds.), *International Law and Violence Against Women*, London and New York, 2020, p. 326 ff.