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THE RIGHT TO CARE WITHIN THE INTER-AMERICAN SYSTEM FOR THE PROTECTION OF HUMAN RIGHTS: AN ANALYSIS OF WOMEN'S RIGHTS TO LEISURE, REST, WORK, AND FAMILY LIFE

O DIREITO AO CUIDADO NO ÂMBITO DO SISTEMA INTERAMERICANO DE PROTEÇÃO AOS DIREITOS HUMANOS: UMA ANÁLISE DOS DIREITOS DAS MULHERES AO LAZER, AO DESCANSO, AO TRABALHO E À CONVIVÊNCIA FAMILIAR

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ABSTRACT

This study analyzes the right to care and women's rights to leisure, rest, work, and family life within the Inter-American System for the Protection of Human Rights, with the aim of inves-tigating how these rights are recognized and promoted in international instruments and how they are applied in Brazil. The methodology consists of bibliographic and documentary re-search, including an analysis of treaties, resolutions, and advisory opinions issued by the Or-ganization of American States and the Inter-American Court of Human Rights. The results indicate that, although normative advances have occurred, particularly through the Protocol of San Salvador, the Inter-American Model Law on Care, and Advisory Opinion OC-31/2025, these frameworks are recent and remain insufficient to ensure full effectiveness. The burden associated with women's double workday persists and hinders the full exercise of these rights. It is concluded that, despite the existing legal framework and the adoption of national policies, such as the National Care Policy, the social effectiveness of these norms in Brazil remains lim-ited. The implementation of public policies, support infrastructure, and awareness-raising measures is therefore necessary to ensure the realization of the right to care and gender equity.

Keywords: Inter-American System for the Protection of Human Rights. Women's rights. Care work. Work-family balance. Women's double burden.

RESUMO

O presente trabalho analisa o direito ao cuidado e os direitos das mulheres ao lazer, descanso, trabalho e convivência familiar no âmbito do Sistema Interamericano de Proteção dos Direitos Humanos, tendo como objetivo investigar como esses direitos são reconhecidos e promovidos nos instrumentos internacionais e como é a sua aplicação no Brasil. A metodologia utilizada consiste em pesquisa bibliográfica e documental, com análise de tratados, resoluções e pareceres da Organização dos Estados Americanos e da Corte Interamericana de Direitos Humanos. Os resultados indicam que, embora existam avanços normativos, especialmente com o Proto-colo de São Salvador, a Lei Modelo Interamericana de Cuidados e o Parecer Consultivo OC-31/2025, tais marcos são recentes e ainda insuficientes para garantir plena efetividade, persis-tindo a sobrecarga feminina decorrente da dupla jornada de trabalho, que dificulta o exercício pleno desses direitos. Conclui-se que, apesar do arcabouço jurídico existente e da adoção de políticas nacionais, como a Política Nacional de Cuidados, a efetividade social dessas normas no Brasil ainda é limitada, sendo necessária a implementação de políticas públicas, infraestru-tura de apoio e ações de conscientização para assegurar a concretização do direito ao cuidado e a equidade de gênero.

Palavras-chave: Sistema Interamericano de Proteção dos Direitos Humanos. Direitos das mulheres. Trabalho de cuidado. Equilíbrio trabalho-família. Dupla jornada de trabalho feminina.

INTRODUCTION

Historically, women have been assigned domestic duties related to maintaining the household and caring for family members. In this context, women remained, in most cases, confined to the private sphere, while men were responsible for working and providing for the family (Hirata; Kergoat, 2007; Sorj; Machado; Fontes, 2007). Over time, particularly as a result of feminist struggles and demands, women gained more rights and greater space in public life, becoming able to participate in the political sphere and pursue professional careers, thereby achieving greater independence and expanding their rights.

However, despite women's entry into the labor market, which brought changes to traditional family dynamics, domestic duties still fall primarily on women. According to data from the Brazilian Institute of Geography and Statistics (IBGE, 2024), women devote more than 21 hours per week to domestic and family tasks, whereas men devote fewer than 12 hours per week, representing a difference of almost 10 hours per week.

Thus, with women's entry into the labor market without an adequate redistribution of domestic and family duties, women have had to reconcile family and professional demands simultaneously, a situation that has become known as the female double workday (Hirata; Kergoat, 2007; Beltrame; Donelli, 2012; Reis; Alves Gonçalves; Cardoso Campos, 2024). Under this arrangement, after returning home from their professional work, women are responsible for a range of household tasks, performed without remuneration and often without recognition (Hirata; Kergoat, 2007; Moser; Dal Prá, 2016). In addition to

imposing a significant burden on women, this double workday poses a considerable challenge to achieving greater gender equality and enabling women to fully enjoy their rights (Reis; Alves Gonçalves; Cardoso Campos, 2024).

Since women must coexist in two equally demanding spheres whose requirements are often difficult to reconcile, balancing domestic and professional life, as well as protecting the right to care and women's rights to leisure, rest, family life, and work, may prove challenging.

For this reason, it is necessary to examine the legal instruments available to ensure such difficult reconciliation, particularly within the field of Public International Law, in which human rights are recognized and protected through international human rights protection systems. Accordingly, this article employs bibliographic and documentary research, as well as a normative review, to analyze international treaties, advisory opinions, recommendations, and reports of the Organization of American States (OAS), which constitutes the Inter-American human rights protection system. The study therefore seeks to determine whether the human rights treaties comprising this protection system contain provisions intended to guarantee the right to care and women's rights to leisure, rest, work, family life, and the reconciliation of professional and family life.

Accordingly, the study first addresses the operation of international human rights treaties and international human rights protection systems. At this stage, it seeks to understand the importance of these treaties, how they operate, and their binding force vis-à-vis State sovereignty, in addition to examining the origins of international protection systems and their control mechanisms.

Next, the treaties themselves are analyzed through a study of a series of treaties and other international documents, focusing on specific provisions concerning the rights examined in this research, namely the right to care and women's rights to leisure, rest, work, family life, and work-family balance. In particular, the study seeks to determine whether these international instruments provide measures to guarantee these rights and promote such balance.

Finally, the investigation addresses the application of these international treaties in Brazil, particularly their effectiveness, or social efficacy, and the factual infrastructure required for these rights to be properly applied and protected in the country, ensuring that women can freely enjoy them without distinction.

METHODOLOGY

This study investigated the normative instruments of the Organization of American States (OAS), the international organization responsible for the regional human rights protection system to which Brazil belongs. For this purpose, the OAS website was consulted and treaties, conventions, and resolutions adopted within the organization were analyzed, with those containing provisions relevant to the research topic being selected, namely provisions concerning the right to care and women's rights to leisure, rest, work, family life, and/or the balancing of working time between the family and professional spheres of women's lives. Likewise, decisions of the Inter-American Court of Human Rights (IACHR Court) concerning these topics were searched on the OAS website.

The search for these data included treaties and decisions containing terms such as "gender," "woman," "women," "care," "female," "work," "leisure," "family," "workload balance," "double workday," "gender equality," "equality," "rest," and "family life," as well as their corresponding terms in English and Spanish, according to the language used in the document analyzed.

Treaties and decisions dealing specifically with the rights of other groups, such as children and adolescents or persons with disabilities, were excluded, as were decisions of the IACHR Court concerning these rights in particular and isolated situations, especially cases involving work analogous to slavery.

After obtaining these data, a documentary analysis was conducted to determine how these rights were addressed and what guarantees, rights, and duties they imposed on individuals and OAS member States. In parallel, bibliographic research was conducted on articles and books addressing these issues.

THE IMPORTANCE OF THE INTERNATIONAL HUMAN RIGHTS PROTECTION SYSTEM FOR BRAZILIAN PUBLIC POLICIES

The international human rights protection system emerged during the process of the "internationalization of human rights" that began after the end of World War II (Piovesan, 2014, p. 21). The atrocities perpetrated by Nazism, which were legitimized and permitted by German national legislation at the time, demonstrated to the international community the need for human rights protection not to remain restricted to State protection. Human rights were therefore reconstructed, with human dignity becoming the ethical reference guiding these rights and the reorganization of the international order (Piovesan, 2014).

Thus, in 1948, the United Nations adopted the Universal Declaration of Human Rights, which initiated the international human rights protection system (Tavares Arantes; Dias, 2023). The Declaration introduced the contemporary conception of human rights, characterized by their universality, indivisibility, and interrelationship. Moreover, from that point onward, signatory countries accepted that human rights protection was no longer an exclusively domestic matter for each State, thereby creating the international human rights protection system (Piovesan, 2014).

The international human rights protection system is, in fact, composed of more than one protection system: the global system and regional systems. These operate complementarily to establish minimum human rights protection standards to be observed by States, while also allowing international protection mechanisms to act when a State regresses or fails to promote such rights (Piovesan, 2001).

The existence of both global and regional international protection systems is important because they complement one another. While the global system, linked to the United Nations, encompasses most countries, regional systems enable action that is more specific and compatible with the cultural, sociopolitical, and customary characteristics of each region. Regional systems therefore ensure that human rights protection is adapted to local realities and may, in some cases, prove more effective and consistent with the protection of rights within that system (Do Vale; Santos, 2016).

Accordingly, according to Flávia Piovesan (2001), the greatest contribution of the international protection system, through the joint operation of global and regional systems, is to "foster progress and advances within a given State in the protection of human rights." In addition, it is important to emphasize that national human rights protection systems have not become obsolete because of international protection; rather, they remain the first protective system to act and guarantee human rights (Piovesan, 2008).

In Brazil's case, the country is subject to two human rights protection systems: the global system, linked to the United Nations, and the regional Inter-American system, linked to the OAS. The Inter-American System for the Protection of Human Rights emerged through the American Convention on Human Rights, or Pact of San José, in 1969, undoubtedly influenced by the Universal Declaration of Human Rights (Do Vale; Santos, 2016).

The protection systems are formed by international human rights treaties concluded within each international organization. International treaties are “the legitimate and competent expression of the will of sovereign States, or international organizations, which, by negotiating rights and duties among themselves, establish them in written and formal rules for full validity and effectiveness” (Guimarães, 2017).

Through a treaty, a State, exercising its sovereignty, negotiates its interests with another negotiating entity in order to achieve a common objective, whether a trade agreement, the protection of human rights, or the standardization of conduct at the international level. Guimarães (2017) emphasizes that international treaties primarily serve the latter purpose, seeking to create what is known as “Uniform Law,” which attempts to establish legal rules of international scope that can be followed and respected by all, thereby providing greater legal certainty and predictability for international entities and for the people who comprise them in their dealings with one another.

For this reason, one of the most important characteristics of international treaties for this study is their binding force. According to a joint reading of Articles 26, 27, and 29 of the 1969 Vienna Convention, a treaty in force binds the parties that concluded it throughout their national territories, and they must perform it in good faith and refrain from acts contrary to its terms; they are also prohibited from invoking provisions of domestic law to justify non-compliance (United Nations, 2021).

Accordingly, subject to international responsibility and in accordance with the pacta sunt servanda principle, international treaties are binding and must be observed by signatory States, both in their domestic legal provisions and in actions affecting their own citizens and other international entities (Menezes, 2005). This binding nature, obligatory force, and possibility of international accountability are fundamental to the existence of the international human rights protection system.

Thus, the international human rights protection system serves to ensure that human rights treaties are complied with by signatory States and that human rights are respected and protected by them. By signing an international treaty, a State not only agrees to the terms of the document but also accepts international community oversight and monitoring in order to prevent human rights violations (Piovesan, 2001).

For this purpose, most treaties contain monitoring and control mechanisms either in the treaty itself or in additional protocols subsequently adopted to enable such monitoring. Means used by the international community to monitor treaty compliance include the submission of optional reports on the human rights situation in a country, the possibility for individuals or organizations to submit petitions to the international body, and the existence of Committees, Commissions, and even Courts to ensure compliance with the treaty and the protection of these rights (Do Vale; Santos, 2016). As Piovesan states:

> [...] It should be emphasized that the State always bears primary responsibility for human rights protection, while international action is supplementary, additional, and subsidiary, presupposing the exhaustion of domestic remedies before it may be triggered. It is from this perspective that the role of UN Committees and Commissions and of the International Criminal Court itself (still to be established) should be highlighted (Piovesan, 2001, p. 5).

It follows that, although the State bears primary responsibility for safeguarding human rights, when it fails to do so, provided that it is a party to an international treaty protecting the right concerned, the international community may act by holding the State accountable and ensuring that the violation ceases and the resulting harm is remedied.

In addition to binding norms, there are also non-binding international norms, known as soft norms. Although these international norms do not entail compulsory force or legal obligations, they are generally observed by States, including because they may serve as a basis for future binding treaties. Thus, according to Varella (2019), soft norms are associated with moral control, representing a capacity attributed to the State, which may or may not follow them; they are therefore neither justiciable nor capable of generating liability, unlike international treaties.

Having examined the importance of human rights treaties and the protective system they constitute, the study can now turn to its main focus: international human rights treaties within the OAS that address the right to care and women's rights to leisure, rest, work, family life, and work-family balance.

THE INTER-AMERICAN SYSTEM FOR THE PROTECTION OF HUMAN RIGHTS, THE RIGHT TO CARE, AND WOMEN'S RIGHTS TO LEISURE, REST, WORK, AND FAMILY LIFE

Based on the search and selection criteria set out in the methodology section of this study, six normative and judicial documents issued within the framework of the Organization of American States were selected because they address issues and rights relevant to this research, particularly women's rights to leisure, rest, work, and family life.

The selected documents were: (a) the American Convention on Human Rights (Pact of San José), 1969; (b) the Protocol of San Salvador, 1988; (c) the Inter-American Convention against All Forms of Discrimination and Intolerance, 2013; (d) Resolution No. 1732 (XXX-O/00), 2000; (e) the Inter-American Model Law on Care; and (f) Advisory Opinion OC-31/2025.

For purposes of visualization, a comparative table (Table 1) is presented below, in which the documents are identified by the corresponding letter (American Convention on Human Rights – A; Protocol of San Salvador – B; Inter-American Convention against All Forms of Discrimination and Intolerance – C; Resolution No. 1732 (XXX-O/00) – D; Inter-American Model Law on Care – E; Advisory Opinion OC-31/2025 – F):

Table 1 | Comparative table of the documents analyzed

Document	Legal nature	Year	Issuing body	Incorporated into domestic law	Binding force	Rights analyzed
A	Pact	1969	OAS General Assembly	Yes (Decree No. 678/1992)	Supralegal status	Equality and family
B	Supplementary protocol	1988	OAS General Assembly	Yes (Decree No. 3,321/1999)	Supralegal status	Family, work, rest, leisure, social security
C	Convention	2013	OAS General Assembly	No	Not applicable	Equality and protection of the human rights of marginalized groups
D	Resolution	2000	OAS General Assembly	Not applicable	Soft norm	Gender equality and women's human rights
E	Model Law	2022	Inter-American Commission of Women	Not applicable	Soft norm	Care
F	Judicial interpretation	2025	IACHR Court	Not applicable	Soft norm	Autonomous right to care, rest, leisure

Source: prepared by the authors (2026).

The American Convention on Human Rights, better known as the Pact of San José, adopted in November 1969, is, within the OAS, the equivalent of the UN Universal Declaration of Human Rights. For this reason, it contains important general provisions on human rights to be protected by the Inter-American protection system.

Regarding the subject of this study, Article 17 is relevant because it recognizes the importance of the family and its need for special protection (§ 1), as well as equality of rights and responsibilities between spouses (§ 4); Article 32 provides that all persons have duties toward the family, the community, and humanity (§ 1). Through these provisions, the very instrument establishing the Inter-American protection system recognizes the importance of the family and the joint responsibility of spouses in carrying out family functions, implicitly recognizing the need for more active male participation in family responsibilities.

In addition to the Pact of San José, the OAS adopted a supplementary protocol on economic, social, and cultural rights, the Protocol of San Salvador, concluded in November 1988. Article 6 guarantees the right to freely choose one's work in order to achieve a dignified and decent life and provides, at the end of paragraph 2, that "States Parties also undertake to carry out and strengthen programs that help ensure adequate care for the family, so that women have a real opportunity to exercise their right to work" (Brazil, 1999).

It is not uncommon for motherhood and the performance of family and domestic tasks to compete with women's professional advancement in their daily lives (Beltrame; Donelli, 2012). Thus, through this provision, the OAS recognizes that women's right to work is often dependent upon the availability of alternative means of family and domestic care and may be hindered when such care falls exclusively upon them. This recognition is important because it requires States Parties to adopt measures to ensure the existence of such a support network, which is essential to guaranteeing women's right to work and to balancing the roles they perform.

Another special attention to the needs of working women provided for by the Protocol is expressed in Article 9(2), which imposes on the State the obligation to ensure paid maternity leave before and after childbirth as part of the right to social security (Article 9(2)). This provision is reiterated in Article 15(3)(a), which guarantees mothers, whether employed or not, special protection, care, and

assistance before and after childbirth. In addition, Article 16, which addresses children's rights, provides that a young child may not be separated from his or her mother except in exceptional circumstances recognized judicially, reinforcing the importance of the maternal role during the first months and years of a child's life and the mother's responsibility toward her baby.

Although maternity leave and parental leave in general are insufficient to guarantee a satisfactory balance between professional and family life, since they focus only on the initial period following the arrival of a child (Sorj; Machado; Fontes, 2007), the guarantee of paid maternity leave is fundamental to the maintenance and subsistence of many working women after the birth or adoption of their children. Moreover, the protection, care, and assistance guaranteed by the Protocol are also related to legal institutions such as temporary employment stability for pregnant women, for example.

The 2013 Inter-American Convention against All Forms of Discrimination and Intolerance, which has general scope, seeks to prohibit all forms of discrimination and intolerance and is not directed toward any specific group. Although Brazil signed the treaty, it has not yet ratified it before the OAS or incorporated it into its domestic legal order. Articles 5 and 6 provide that States must afford equitable treatment to all, using public policies and affirmative action to ensure the enjoyment of human rights by excluded, discriminated-against, and marginalized groups. Such measures should not be considered discriminatory or incompatible with human rights, provided that they are maintained for a reasonable period or until the objective is achieved.

This provision makes it possible to understand that when a group is disadvantaged in the exercise of its rights, the State must adopt measures to ensure that the violation ceases; such action should not be considered discriminatory but rather compensatory. In this sense, the Convention allows for public policies aimed, for example, at achieving a more effective balance between domestic and professional work schedules for women, recognizing the double workday and safeguarding their rights to leisure, rest, family life, and work.

In June 2000, the OAS General Assembly adopted Resolution No. 1732 (XXX-O/00), which adopted the Inter-American Program on the Promotion of Women's Human Rights and Equity and Gender Equality, with a series of objectives aimed at combating discrimination and violence against women. For the purposes of this article, Recommendations 1.16, 1.17, and 1.18 are particularly

relevant, addressing, respectively, women's equal access to work and productive resources, the right to equal pay, and recognition of the economic value of unpaid care work, such as domestic and family activities performed by women.

In addition, the Resolution is a comprehensive document because it not only establishes goals and objectives to be achieved but also proposes recommendations so that States and OAS bodies can attain them. Although it does not use the term "care," the Resolution is the first among the documents analyzed to explicitly address unpaid work performed by women in the household and to encourage recognition of its economic value.

Recognizing the economic value of unpaid work performed by women is highly important, since studies indicate that it may be equivalent to more than US$10.8 trillion per year (Palmeira; Bonfim, 2025). Nevertheless, these activities are rendered invisible and do not receive the prestige or recognition they deserve, nor are they legally regulated or protected (Hirata; Kergoat, 2007; Palmeira; Bonfim, 2025). Once the value of these functions is recognized—not only economically, but also socially, communally, and affectively—their protection and the rights of the women who perform them can be strengthened.

It is in this context that the Inter-American Model Law on Care (IMLC) emerged, formulated in 2022 by the Inter-American Commission of Women with the assistance of the European Union, with the purpose of providing a legal basis for recognizing and regulating unpaid care and domestic work, generally performed by women. Although it is neither a treaty nor a resolution, because it was issued within the OAS framework, the IMLC may serve as inspiration for the Organization's member countries to regulate the matter.

The Model Law contains several provisions on care, including its definition, social function, and the need for its equal sharing, particularly within the family. It also recognizes the right to care, the rights of paid and unpaid caregivers, and assigns the State the role of guarantor of these rights, including by facilitating work-family reconciliation. In addition, the IMLC proposes the implementation of a National Care System (NCS), which would be responsible for ensuring public and universal access to care rights. The Model Law is comprehensive and even addresses maternity leave, paternity leave, shared parental leave, and measures for labor flexibility and support for reconciling care responsibilities.

Finally, it is essential to mention Advisory Opinion OC-31/2025, issued by the Inter-American Court of Human Rights at the request of Argentina, which analyzed the content and scope of the right to care and its interrelationship with other rights in light of human rights protected within the OAS framework and other protection systems.

In summary, the Court recognized the importance of care, defining it as "the set of actions necessary to preserve human well-being," while also constituting "a basic, unavoidable, and universal need on which both human life and the functioning of life in society depend" (Organization of American States, 2025, p. 18). Accordingly, care is a shared responsibility among the family, community, civil society, and the State, with its foundation and scope related to the principles of social and family co-responsibility and solidarity.

In this context, care was found to be an essential component of multiple rights protected by the American Convention. Nevertheless, the Court held that the right to care cannot be limited to partial dimensions within other rights, as doing so would fragment it and thereby affect human dignity. It therefore recognized the right to care as an autonomous human right. According to the Court, it comprises three dimensions: the right to be cared for, the right to provide care, and the right to self-care.

In light of this, the Court established a series of duties for States concerning the right to care in its three dimensions. Among these provisions is the duty to respect and guarantee the right to care and to adopt legislative measures and public policies to achieve its full effectiveness. It requires State action to ensure the equitable distribution of unpaid care work within families and to protect persons who perform care work, whether paid or unpaid, ensuring non-discrimination, labor rights, and a minimum standard of well-being and social security. It also indicated that States must implement measures to reconcile professional life with care needs so as to preserve the right to work without discrimination for workers with family responsibilities.

To systematize the information presented after this brief normative review, a comparative and analytical table (Table 2) is presented below, organizing relevant aspects of each document analyzed according to their relationship with State obligations, public policies, and the rights they generate.

Table 2 | Analytical table of the documents analyzed

Document	Creates State obligation	Provides for public policies	Provides implementation mechanisms	Recognizes unpaid care	Universalizes care	Justiciable
A	Yes	Yes	No	No	No	Yes
B	Yes	Yes	No	No	No	Yes
C	Yes	Yes	No	No	No	No[1]
D	Yes	Yes	No	Yes[2]	No	No
E	No	Yes	Yes	Yes	Yes	No
F	Yes[3]	Yes	Yes	Yes	Yes	Yes

Source: prepared by the authors (2026).

Thus, based on the foregoing, it can be observed that, with the exception of the Protocol of San Salvador, the OAS does not have many treaties addressing work-family reconciliation or the reconciliation of women's rights to work and family life. Nevertheless, the importance of Resolution No. 1732 (XXX-O/00) must be recognized, as must the progress that may be achieved through the Inter-American Model Law on Care, particularly after Advisory Opinion OC-31/2025 of the IACHR Court recognized the right to care as an autonomous human right that must be guaranteed and promoted by OAS member States. Based on these findings, the effectiveness of these international norms in the Brazilian context can then be discussed.

1 It should be noted that, in this case, although Brazil has signed the Inter-American Convention against All Forms of Discrimination and Intolerance, the Convention has neither been ratified nor incorporated into domestic law by the country. Thus, according to Varella (2019), although the signature imposes on the State an obligation not to engage in acts that would frustrate the application of the treaty, it is through ratification that the State expresses its consent to be bound by the content of a given treaty. Therefore, the Convention may be justiciable vis-à-vis other OAS member states, but not vis-à-vis Brazil. It should be noted that, in this case, although Brazil has signed the Inter-American Convention against All Forms of Discrimination and Intolerance, the Convention has neither been ratified nor incorporated into domestic law by the country. Thus, according to Varella (2019), although the signature imposes on the State an obligation not to engage in acts that would frustrate the application of the treaty, it is through ratification that the State expresses its consent to be bound by the content of a given treaty. Therefore, the Convention may be justiciable vis-à-vis other OAS member states, but not vis-à-vis Brazil.

2 In this case, Resolution No. 1732 (XXX-O/00) does not explicitly refer to "unpaid care," but rather addresses, more precisely, "unpaid work, including that performed by women in the home" (Organization of American States, 2000). Accordingly, it is evident that, although there is no explicit reference to care, unpaid work performed by women in the home undoubtedly constitutes unpaid care work.

3 Although the advisory function of the Inter-American Court of Human Rights does not have binding force, the Court made it clear that the right to care must be respected and promoted by States, not by virtue of the Court's decision itself, but in accordance with the systematic interpretation of various provisions of the American Convention.

THE APPLICATION OF INTERNATIONAL TREATIES ON WOMEN'S RIGHTS TO LEISURE, REST, WORK, AND FAMILY LIFE IN BRAZIL

After conducting research on international treaties and other OAS documents addressing the human rights at issue, it is necessary to examine their application in Brazil. Although Brazil is a signatory to all the treaties presented in this study, it is impossible to overlook that implementation of the rights provided therein remains deficient. It is therefore necessary to introduce the concept of effectiveness of norms, or social efficacy.

The effectiveness of a norm is "its acceptance by the community and its continuous and actual use" (Calsing, 2012, p. 295), that is, its ability not only to produce legal effects but also social effects, influencing social reality and shaping it according to the dictates of law. In this sense, even if a norm exists, is valid, and is capable of producing effects, if those effects are not actually achieved, with no change in reality or adoption of the normative precepts, it lacks social efficacy; a norm without social efficacy is essentially ineffective or "dead letter" (Calsing, 2012, p. 297).

Although it may be accepted that no norm can achieve complete social efficacy or be adopted totally and perfectly, it is undeniable that some degree of effectiveness is necessary for a norm to be considered adequate. Thus, as Calsing (2012) teaches, a minimum level of effectiveness is indispensable even for norms to be considered valid as a whole, because otherwise, without social acceptance, the body of norms would be unable to assert itself.

In this regard, the author states that "[f]or norms to be effective, they need political, social, and legal guarantees, and institutions, policies, actions, and procedures capable of concretely implementing normative commands are indispensable" (Calsing, 2012, p. 299). In this sense, she emphasizes the importance of the norm not existing merely on paper, but being supported by a factual structure that helps implement it.

THIS NOTION IS ESSENTIAL TO THE PRESENT DISCUSSION.

According to Moser and Dal Prá (2016), efforts to study and ensure the reconciliation of family and work schedules are relatively recent. Even from the content of the treaties examined, it can be observed that this was not among the concerns expressed in the earliest international agreements, which focused more on rights common to everyone, typical of first- and second-generation rights.

Nevertheless, international efforts concerning the right to care and women's rights related to reconciling professional and personal schedules already exist. Within the Organization of American States, the Protocol of San Salvador, in 1988, already recognized the need to provide family support to ensure women's access to the labor market. In addition, the Inter-American Model Law on Care, at least within the scope of the research conducted, appears to be unique and promising, containing important provisions that may be fundamental to a paradigm shift regarding the sexual division of labor. Likewise, the content of Advisory Opinion OC-31/2025 is essential to this purpose, as it recognized the right to care as an autonomous human right protected by the Inter-American protection system and established a series of related duties for States.

However, if international efforts are recent, they are likely to take even longer to produce effects in Brazil. In December 2024, Brazil enacted Law No. 15,069/2024, establishing the National Care Policy (NCP). Although this was an important step, recognizing unpaid care work and proposing its redistribution through the co-responsibility of men and women, it must be emphasized that the scope of the matters addressed by Brazilian law does not compare with that of the IMLC, particularly regarding provisions on parental leave and reconciliation of care work with other obligations.

To regulate and implement the NCP, the National Care Plan (NCP-Plan) was established by Decree No. 12,562/2025, largely reproducing the content of the NCP. It provides for guaranteeing the rights of those who provide unpaid care and for reconciling paid work with family care needs, but it does not define an action and/or implementation plan for promoting these rights. Nor does it establish concrete measures for protecting these rights or deadlines for adopting possible measures.

In addition to the National Care Plan, the Brazilian Federal Government created the Participatory Care Observatory and DataCuidados to support studies and public policies aimed at

implementing the NCP. DataCuidados is an Observatory tool, an indicators dashboard containing data from official national statistics on the social organization of care in Brazil, both from the perspective of caregivers and of persons requiring care. It should be noted, however, that the official websites of the Participatory Care Observatory and DataCuidados were unavailable when access was attempted[4] and could only be reached through the homepage linked to InfoGov, of the National School of Public Administration (Enap). Although the purpose of the dashboard is to provide public access to these data, access appears to be restricted, which makes research such as the present study more difficult.

However, according to the most recent IBGE data (2024), in 2022 women devoted an average of 21.3 hours per week to domestic and/or family tasks, while men devoted only approximately 11.7 hours. In 2016, women devoted an average of 17.7 hours per week, compared with 10.4 hours for men (Brazilian Institute of Geography and Statistics, 2018). Thus, the number of weekly hours devoted to domestic and family work increased from 2016 to 2022 for both men and women, perhaps because of the COVID-19 pandemic or for another reason. Nevertheless, while men's workload increased by slightly more than one hour per week, women accumulated almost four additional hours per week.

These data demonstrate that, despite the existence of international treaties incorporated into Brazilian law containing provisions on women's rights to leisure, rest, family life, and work, including significant requirements concerning co-responsibility for domestic tasks, these norms still lack social efficacy; that is, they lack effectiveness.

Thus, recalling Calsing's words, for a norm to be effective, organizations and entities must act to ensure the existence of a factual infrastructure for the norm's application and enforcement. This infrastructure may result from awareness campaigns, affirmative action, public policies, improvements to the support system for caring for children and other dependents, and other

4 Access was carried out on July 17, 2026, through the following addresses: https://www.gov.br/mds/pt-br/acoes-e-programas/brasil-que-cuida/original/observatorio-do-cuidado/datacuidado and http://mds.gov.br/observacuidados, which indicated that the content was restricted and that authentication was required to access the page. Even after accessing the platform through the gov.br system, it was not possible to access DataCuidados or the Participatory Observatory of Care. Not even the news articles available on the Gov.br website, found by searching for "Participatory Observatory of Care" on Google, could be accessed (https://www.gov.br/mulheres/pt-br/central-de-conteudos/noticias/2025/junho/com-dados-e-novas-ferramentas-governo-federal-avanca-na-consolidacao-da-politica-nacional-de-cuidados). It should be noted, however, that on previous occasions, access to the dashboard content had been possible without any impediment.

procedures. Many of these procedures are already provided for in the treaties, resolutions, and advisory opinions adopted, and even in the IMLC; what is lacking is their effective implementation.

Certainly, the issue is not limited exclusively to the existence—or absence—of political will, since social, cultural, structural, and even budgetary issues must also be considered in guaranteeing these rights and creating such infrastructure. Nevertheless, given that Brazil has signed the aforementioned treaties and committed to guaranteeing women's human rights, the binding force of these instruments and the pacta sunt servanda principle make it clear that Brazil must adopt all measures necessary to promote them and prevent violations of these rights.

As already discussed and even recognized in some of the documents analyzed, the double workday and the excessive accumulation of domestic and family responsibilities by women considerably affect their rights, particularly those related to leisure, rest, self-care, and work. Leisure, rest, and self-care are affected because women who work inside and outside the home often do not have sufficient time to rest, care for themselves, or enjoy adequate leisure, which directly affects their physical and mental health (Beltrame; Donelli, 2012). With regard to the right to work, the burden of family and domestic tasks hinders and sometimes even prevents women's (re)entry into the labor market, or forces them to abandon their careers in order to prioritize the household (Santos, 2019).

Therefore, despite the difficulty in ensuring the effectiveness of these fundamental human rights, it is necessary to implement a factual and cultural infrastructure to guarantee the right to care and women's rights to leisure, rest, family life, work, and the reconciliation of family and professional life.

As noted above, this can be achieved primarily through educational campaigns aimed at changing perceptions of the sexual division of labor and promoting a more balanced distribution of domestic tasks among family members. The creation and development of support networks, whether State-based or otherwise, for the care of children and other dependents should be promoted, particularly through childcare centers, greater flexibility in women's work, especially for mothers, recognition of unpaid care work, and other forms of affirmative action and public policy.

In addition, other concrete measures are necessary to guarantee the right to care and all other rights connected to it. Undoubtedly, the Inter-American Model Law on Care can serve as a source of inspiration: the IMLC provides for budgetary allocations for the National Care System and for the monitoring and supervision of services provided within it, in order to ensure a quality standard. The Model Law also enables and encourages collaborative partnerships between the State and other public, private, community, and business care providers.

Accordingly, it is essential to establish concrete measures and deadlines for adopting them. For this reason, based on the measures provided for in the IMLC, it is suggested that the Federal Government encourage the voluntary participation of the States, Municipalities, and Federal District in the National Care Plan, pursuant to Article 17 of the aforementioned decree. It would also be worthwhile to create, in Brazil, a National Care System, as proposed by the Model Law, preferably in digital form, so that private and community organizations could register to receive potential benefits, participate in continuing education, and provide care to the priority groups identified in the NCP. Registration in the NCS would also enable monitoring of these care providers, thereby ensuring the quality of the services provided.

For this purpose, a two-year period is suggested for the creation and implementation of the NCS, followed by broad dissemination and opening of the System for registration by interested parties. Thereafter, biennial or triennial cycles of evaluation and monitoring could be established, promoting continuing education for registered providers and enabling the creation of a tax and social benefits program to encourage continued registration in the System and the provision of care, with or without monetary compensation.

In view of these suggestions, it is clear that, in compliance with the international treaties examined above and consistently with the duties and obligations to protect and promote human rights that Brazil has undertaken to fulfill, the country should adopt measures to implement the human rights norms that guarantee women the right to leisure, rest, family life, and work, as well as ensure that these rights are effective and produce real effects that improve the quality of life of Brazilian women.

CONCLUSION

The research demonstrates that international treaties are an important tool for negotiation among international entities, particularly States. Through their binding force, international treaties require the parties that have signed them to comply with them and take measures to ensure that their contents are applied. Human rights protection systems arise from these instruments and guarantee a minimum level of protection for such rights, continually seeking their development so that States Parties may guarantee more rights, more broadly and more effectively. For this study, particular attention was given to the Inter-American protection system of the OAS, to which Brazil is subject.

Based on these initial concepts, the study examined in greater depth the Inter-American human rights protection system, particularly international treaties, advisory opinions, and reports addressing the right to care and women's rights to leisure, rest, work, family life, and work-family balance. In general, the Inter-American system contains provisions on equality of rights and equality before the law, guarantees the enjoyment of fundamental rights and freedoms by all persons without distinction, and includes treaties specifically addressing the situation of women, affording them enhanced protection because of the historical and social prejudice, discrimination, and violence they have experienced.

The most important treaties and documents within the OAS are the Protocol of San Salvador, 1988; Resolution No. 1732 (XXX-O/00), 2000; the Inter-American Model Law on Care, 2022; and Advisory Opinion OC-31/2025. The Protocol of San Salvador requires States to promote programs for adequate family support in order to guarantee women's exercise of the right to work, as well as maternity leave and special protection and assistance before and after childbirth for working mothers. Resolution No. 1732 (XXX-O/00), in turn, recognizes the economic value of unpaid care work performed by women and ensures women's equal access to work and equal pay. The IMLC, which is particularly innovative, contains various provisions on care work and provides a valuable framework through which OAS member countries may regulate care work and the sexual division of labor within their respective domestic legal systems. Finally, Advisory Opinion OC-31/2025 not only recognizes the right to care as an autonomous human right deserving protection, but also establishes a series of measures that States must adopt to ensure the full effectiveness of this right.

Thus, a recurring theme in the documents analyzed is the need for a more balanced distribution of domestic and family tasks and the promotion of care support networks for children and dependents. As noted above, this is due to the historical female double workday, which makes reconciliation between family and professional life difficult; both measures are important allies in achieving better reconciliation between these two spheres of women's lives.

With regard to Brazil, the country has ratified the great majority of the treaties presented and these are therefore mandatory for the country. Nevertheless, there is a certain difficulty in ensuring the domestic effectiveness of these international norms. To this end, Brazil must implement factual and cultural infrastructure, establishing concrete measures and deadlines for their adoption in order to ensure the right to care and women's rights to leisure, rest, family life, work, and the reconciliation of family and professional life.

First and foremost, the State must guarantee public and unrestricted access to the data in the DataCuidados dashboard and the Participatory Care Observatory, also in accordance with the transparency that should govern data and public policies. In addition, concrete measures must be implemented to guarantee the right to care and all other rights connected to it. Other measures, such as those suggested throughout this study, should also be adopted to promote the international commitments undertaken by Brazil.

In light of the foregoing, the existence of a domestic and international normative framework is highly important to establish that the rights to care, leisure, rest, work, and family life are fundamental human rights owed to women and that they will be protected and implemented both by Brazil and by the international community. It is essential, however, that these rights be effective and that their protection can be observed in the factual reality of society. For this reason, the adoption of public policies that enable their implementation and development is fundamental, with a view to ensuring that, in the near future, these rights will attain the effectiveness to which they are entitled.

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