

**Convention on the Elimination of All Forms Discrimination Against Women (CEDAW) and
Women's Oppression in the Economic Realm: CEDAW, the Philippine State and Civil Society and
Their Framing of Discrimination and Economic Rights**

by

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Abstract

This work tries to understand whether the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) does and to what extent and via which methodology, sanction a framing of non-discrimination and equality in economic rights that indeed addresses the historical and complex subordination of women in the economic realm. By tracing the limits and extent of the discourses around discrimination and equality in economic rights in CEDAW documents (the Committee's, the Philippine States's (State), the Philippine civil society's), the work aims to figure out what is lacking and what else can be done in order to come up with a framework of gendered discrimination and equality in economic rights of Filipino women and gender minorities at the international level.

CEDAW's deployment of the concept of substantive equality appears to be an attempt to address the failures of formal equality to confront gendered discrimination and oppression. Debates around formal equality and substantive equality have been persistent. Formal equality associated with equal treatment and substantive equality, with special treatment. The differentiation between formal equality and substantive equality as goals of eradicating discrimination plays an important role in envisioning solutions concerning economic issues faced by women, since, equal opportunity, a concept very much related to the two aforementioned concept, have also been a contentious topic in relation to transforming the conditions of the most marginalized among populations in the economic realm. Hence, CEDAW and the platforms it provides are good repository of frames and thinking around discrimination based on gender in relation to economic rights.

This work argues that in order for CEDAW to become more accurate in depicting the problems and solutions around discrimination and equality in economic rights concerning Filipino women and gender minorities, the framings in CEDAW, the documents submitted by the State and submitted by civil society can still be improved and expanded in the following ways: a.) by expanding the conceptualization of gendered oppression in the economy by articulating it beyond rights and identity discourses, b.) by reconstructing the meaning of vulnerability, marginalization and intersection to reflect power, movement and assemblage, c.) by articulating equality as being associated with systems, structures and orders that foreclose women's actual enjoyment of economic rights.

This is based on the findings that CEDAW, the State and civil society frame discourses around economic rights that: a.) do not aptly reflect the ways in which gendered discrimination is deployed outside rights and identity discourses, b.) do not highlight power, movement and assemblage, c.) do not concisely and consistently refer to all forms of systems, structures and orders that curtail people's enjoyment of economic rights.

Chapter 1: Introduction

CEDAW is the main human rights instrument that expounds on women as human rights holders. Being so, as Daren Rosenblum claims, it is the central pillar of norms on gender equality at the international level.¹ CEDAW, as its name implies, tackles discrimination against women and as the provisions of the instrument further elaborate so, in relation with other rights such as economic rights.² Article 1 of the instrument, which defines discrimination against women, supports the hypothesis that equality and non-discrimination are “central and intertwined concepts that together form the core of the state’s obligation.”³ Via the same article, CEDAW departs from the usual definition of equality by stating that discrimination against women means “any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, **enjoyment** or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.”⁴ Thus, textually, CEDAW does not only envision to achieve formal equality as regards rights but also a state where the rights relating to politics, the economy, social, cultural and civil are actually **enjoyed**. In differentiating between de facto and substantive equality, the CEDAW Committee in General Recommendation 25 states: “The lives of women and men must be considered in a contextual way, and measures adopted towards a real transformation of opportunities, institutions and systems so that they are no longer grounded in historically determined male paradigms of power and life patterns.”⁵

Discrimination and Equality and Economic Rights of Women and Gender Minorities

Discrimination and equality have been made subjects of many theorizing around rights, especially relating to women and gender, in general. The theorizing is not exclusively contained in the field of law. It is persistent in debates between movements of different political and intellectual viewpoints and in the academia. Thinking around discrimination and equality in relation to economic rights is exemplified as the debate and tension between approaching the struggle for gender emancipation disposing the frames of identity politics and the lens of class politics. In the academia, one notable theorist in this respect is Nancy Fraser who has postulated the contradiction as the tension between the strategy of recognition and the strategy of redistribution. For Fraser, the recognition aspect claims that gender is a status differentiation while

¹ Darren Rosenblum, *Unsex CEDAW, or What's Wrong With Women's Rights*, 20 Columbia J. Gender & L. 98 (2011), <http://digitalcommons.pace.edu/lawfaculty/810/>.

² UN General Assembly, “Convention on the Elimination of All Forms of Discrimination Against Women,” *United Nations, Treaty Series, vol. 1249, p. 13* (1979), Preamble, Paragraph 3 & 4.

³ UN General Assembly, “Convention on the Elimination of All Forms of Discrimination Against Women,” *United Nations, Treaty Series, vol. 1249, p. 13* (1979), Article 1.

⁴ Ibid.

⁵ UN General Assembly, “Convention on the Elimination of All Forms of Discrimination Against Women,” *United Nations, Treaty Series, vol. 1249, p. 13* (1979), General Recommendation Number 25.

the distributive perspective postulates that, “gender is a basic organizing principle of the economic structure of society.”⁶

In the legal field, especially in the area of international human rights law, when the concepts of discrimination and equality are attached to economic rights, economic rights take a different characteristic. Theoretically, as discrimination is not entirely an economic right, it is not subject to progressive realization, minimum core obligation or other concepts expanding or limiting the mandate or efficacy of a recognized economic right. Article 1 of CEDAW, As economic rights, in general, are appreciated by many as less urgent rights, discrimination and equality when attached to economic rights, face similar problems as economic right do in terms of framing. As the Committee on Economic, Social and Cultural rights, itself, observed: “Denial of the right to vote or of the right to freedom of speech, solely on the grounds of race or sex, is loudly and rightly condemned by the international community. Yet deep-rooted forms of discrimination in the enjoyment of economic, social and cultural rights against women, the elderly, the disabled and other vulnerable and disadvantaged groups are all too often tolerated as unfortunate realities.”⁷ In the same vein, when an economic issue becomes considered as an issue of discrimination, more often than not, the concept of equality comes in the picture. More, all the issues that hound discrimination and equality, as legal concepts, consequently attach. The non-discrimination principle in human rights law partakes in the nature of an equality frame that mandates that all the rights enjoyed by men should also be made available to women. Alvarez and Bauder point out that, the CEDAW regime has been subjected to critiques regarding its ability pursue transformational change with its reliance on equality based on the male standard and its practice of focusing on formal equality.⁸

The instrument is potent in such a way that it gives an opportunity to consider and articulate a framework of justice that responds to our time and context of great deprivation that travel through realms that relate to gender and the economy, distinctly, perhaps, but in an interconnected manner. The question, however, is how does CEDAW enable the space for discourse that go beyond status recognition and instead traverses the realm of redistributive justice and vice versa.

Nancy Fraser points out that theorists of recognition do integrate economic equality in their framework. However, she claims that they tend to adopt a “a reductive culturalist view of distribution” and presents a cultural order that hierarchizes types of labor as the root of economic inequalities.⁹ Thus, for these theorists, it is enough to change the cultural order in order to address maldistribution. On the other hand, she also argues that theorists of redistributive politics adopt a “reductive economic-cum-legalistic view of status,” where the distribution of resources is considered enough to address misrecognition.

⁶ Nancy Fraser, 1998. *Social justice in the age of identity politics: Redistribution, recognition, participation*, Discussion Papers, Research Unit: Organization and Employment FS I 98-108, WZB Berlin Social Science Center (1998).

⁷ Office of the United Nations High Commissioner for Human Rights, *Frequently Asked Questions on Economic, Social and Cultural Rights*, Fact Sheet No. 33, https://www.ohchr.org/sites/default/files/Documents/Issues/ESCR/FAQ_on_ESCR-en.pdf.

⁸ José E. Alvarez, Judith Bauder, *Women's Property Rights Under CEDAW, 3 Critiques of the CEDAW Regime, International Law, and International Human Rights*, (Oxford University Press, 2024).

⁹ Ibid.

In contexts of countries like the Philippines where poverty is pervasive and where gender and economic issues work in interconnected ways and are sanctioned by intersecting systems of oppressions, the impetus for a framing that can uncover and express the relationship between discrimination and equality and economic rights and justice is very much present.

The law is a site of ideological battle where parties of different, sometimes antithetical standpoints and viewpoints, interact in a complex process. This interaction produces distinct sets of frames that are inscribed and re-inscribed in spaces other than where the discourse took place. While the law is a product of discourse, it too, produces discourses. While there is no denying that there are dominant discourses and that there are power relations that influence the relationship of discourses with one another, discourses do not travel in a linear way but are always positioned and directed by struggles between parties that have varying assertions.

Thus, in the utterance of certain concepts by the treaty body, the State and civil societies, other meanings are reflected and produced.

In this work I try to analyze CEDAW, the pronouncements of the State and civil society and their deployment of discourses to create a set of meaning around gender, discrimination, equality and economy and whether they espouse or dislodge the following postulations: a. the ways in which, certain economic issues, albeit superficially appearing as gender-neutral, contribute to gendered discrimination and oppression, b. the ways in which discrimination and equality in relation to gender complicate and enhance economic issues and oppressions.

The Philippines

Neferti Tadiar, a Filipino scholar, talks intensively about the location of the Filipino people as members of a country that suffers from “the aftermath and continuing effects of unfinished movements of decolonization against an extant imperial relation of dispossession that serves up enabling milieus for the labor-capital relation.”¹⁰ Tadiar, in *Remaindered Life*, situates the Filipino people side by side with people from other countries and regions which have been subjected to colonization and exposed how imperialism deployed colonized bodies in the service of capital. In her analysis, gender played an integral role in the processes of deployment: “The gendered servitude that anti-colonial and anti-imperialist movements protested also entailed a gendered difference that obtained between these client crony capitalist states and the life of the nations that they helped to indenture, and ultimately to expend, to “service” the debts. That “life” is offered up in the form of the nation’s natural resources—feminized biogeographical properties—that must of their own accord find ways to survive and reproduce (with the “rehabilitating” aid of international development, an early form of “workfare” in its command of work for assistance), in the midst of its own unremitting expenditure.” In her work, Tadiar situates the servitude of countries belonging to this category as providing a model for the production of domestic, care, and other reproductive labor that supplant and is subsumed in the necessities of productive capital life.”¹¹

¹⁰ Neferti Tadiar X. M.. *Remaindered Life* (New York, USA: Duke University Press, 2022), <https://doi.org/10.1515/9781478022381>.

¹¹ Ibid.

Under this analysis, one can surmise that the gendered situation in the Philippines is very much linked to its economic place in the global capitalist order. Hence, to analyse the problems experienced by women in relation to discrimination necessitates the analysis of the what Tadiar coins as the feminization of the Philippine economy under global capitalism.

She raises gender as an area that can be both an effect and means of this processes of differentiation and division: “We thus also see the work of sex-gender and race as the effect and means of differentiation between a distinctly human labor (as source of value) and nonhuman means of production (tools, machinery, and raw material), creating the social differentiation and relation between capitalizable life (life as labor), serviceable life (life as infrastructure), and absolutely expendable life (life as waste).”

For her, in contexts like the Philippines, life, itself has been economized, since: “If life has been “economized”—parsed out through measures of discrepant worth—it is because “the economy” (now acknowledged as global) has become the very atmosphere in which the life of humans is perceived to be possible at all.”¹²

It is in consideration of these analyses that it becomes important how treaties and international human rights mechanisms reflect and provide platforms for discourses around how gender discrimination is intertwined with the economy, not only in a cause-effect manner but with greater and deeper connection that takes into account the possibility of gender as a means to further existing national and international economic order. Considering this context, it is an important question to raise whether the framings of the problems and solutions raised and forwarded in CEDAW documents are sufficient to reflect the complexity of the relationship between gender discrimination and the economy in The Philippines or do they sanction or maintain a kind of equality that stratifies communities along capitalizable life, serviceable life, and absolutely expendable life.

Indivisibility and Interdependence of Rights, Intersectionality and Assemblage

Johanne Bouchard and Patrice Meyer-Bisch, in *Intersectionality and Interdependence of Human Rights: Same or Different?*, investigate the concepts of indivisibility, interdependence and intersectionality placing emphasis on the concept of discrimination in the UN human rights system.¹³ They claim that discrimination in human rights instruments is a stand-alone human rights violation that anchored in the idea of equal dignity among persons: “A close analysis of the list of prohibited grounds recognised by international human rights instruments and the practice and quasi-jurisprudence of the treaty monitoring bodies supported this position.”¹⁴ The authors studied cases where there existed complex and simultaneous violations of human rights. From analysing

¹² Ibid.

¹³ Johanne Bouchard and Patrice Meyer-Bisch, “Intersectionality and Interdependence of Human Rights: Same or Different?,” in *The Equal Rights Review, Vol. Sixteen* (2016), <https://www.equalrightstrust.org/ertdocumentbank/Intersectionality%20and%20Interdependence%20of%20Human%20Rights%20Same%20or%20Different.pdf>.

¹⁴ Ibid.

the said cases, the authors concluded that the human rights monitoring system has limits in terms of analysing situations with a component of intersectional violations. The authors claim that when intersectional violations of human rights are present, everyone seems to not know where to begin and fails to recognize what is the source of a certain issue.¹⁵ As a way to address this, the authors recommend the employment of a more interdisciplinary analysis in intersectional human rights violations.¹⁶ This interdisciplinary analysis posits that the complex backdrop where the intersection human rights violations are committed are systemic and that has components of history, politics, culture and economics.¹⁷ Thus, to present an analysis of the violation and solutions cannot rely merely on one discipline.

In this connection, it is worthy to note that there already exists theoretical problematization around the relationship of oppressions which have gender dimensions but much more. One notable work is Jasbir Puar's *Terrorist Assemblages*. In the subject work, Puar relates intersectionality and assemblage to insist that both have to be utilized simultaneously in order to accurately depict the problem at hand and formulate solutions that enable other forms of oppression to thrive. In her work, Puar describes queerness as coming from all directions by way of assemblage.¹⁸ Relative to intersectionality, assemblage focuses less on strict identity categories and their attachments. Instead, Puar wants us to think in terms on networks, connections and movements. According to her, in opposition with the identity model of politics, "which presumes that components—race, class, gender, sexuality, nation, age, religion—are separable analytics and can thus be disassembled, an assemblage is more attuned to interwoven forces that merge and dissipate time, space, and body against linearity, coherency, and permanency"¹⁹

In presenting and articulating the problems and solutions around discrimination and equality and economic rights, Puar's work becomes relevant in weighing the impacts of presenting problems and solutions that focuses on identities and that fails to identify networks, connections and movements. The discourses around the relationship between discrimination based on gender and economic rights cannot be taken out of the purview of power. As mentioned by Puar, quoting Hardt, "Assemblages are thus crucial conceptual tools that allow us to acknowledge and comprehend power beyond disciplinary regulatory models, where "particles, and not parts, recombine, where forces, and not categories, clash."²⁰

¹⁵ Ibid.

¹⁶ Ibid.

¹⁷ Ibid.

¹⁸ Jasbir Puar K. *Terrorist Assemblages: Homonationalism in Queer Times* (Duke University Press, 2007), <https://doi.org/10.2307/j.ctv1131fg5>.

¹⁹ Ibid.

²⁰ Ibid.

Chapter 2: Methodology

The thesis reviews the 2023 documentation of the 86 Session (09 Oct 2023 - 27 Oct 2023) of CEDAW concerning the Philippines. This includes State party's report, Annex to State party report, Core document, List of Issues, Reply to List of Issues, Info from Civil Society organizations, Info from Civil Society organizations (for the session), Info from NHRIs, Info from NHRIs (for the session), Statement, List of delegation/participants, Additional Info from State Party, Concluding observations. The documents will be analyzed in terms of how the treaty body, the state party and civil societies frame the following: a. gender and women, b. vulnerability, marginalization, intersections, c. discrimination, d. economic rights (health, sexual education, work, migration, land) to see how the Committee, the State and civil society conceptualize the relationship between gender discrimination, equality and economic rights. This will be done in order to plot the limits and extent of the discourses that the CEDAW documents conceptualize a theory of human rights that encapsulates the complex relationship of gender discrimination and economic oppression in the specific context of the Philippines. The thesis focuses on summarizing and analyzing framings that the parties provide to present the problems and solutions as regards issues of health, education, work, poverty, migration, and land. This will relate the framings to how, in general, the documents conceptualize and articulate a. gender and women, b. vulnerability, marginalization, intersections, c. discrimination, d. economic rights. It reviews all the sections of the documents that tackle economic rights and relate them to other sections where gender/women, vulnerability, marginalization and intersections, and discrimination are defined and/or operationalized and finds patterns in how texts are employed to elucidate their relationships. It also reviews the sections and identify the main discourses present in the documents around the categories mentioned above and how the parties share or differ in the ways they formulate discourses around problems and solutions.

The thesis employs critical discourse analysis in plotting how the pronouncement of the treaty body, the state party, and civil society are embedded with the following: a. ideological underpinnings about the nature and characteristics of gender, b. ideological underpinnings about the nature and characteristics of vulnerability, marginalization and intersections c. ideological underpinnings about the nature and characteristics of discrimination, d. ideological underpinnings about the nature and characteristics of economic rights (health, sexual education, work, migration, land).

In order to do a critical analysis of the texts and discourses in the documents, the analysis will be guided by literature that: a. presents the tensions between recognition politics and redistributive politics; identity politics and class politics, b. presents the gendered component of the global capitalist order in the Philippines, c. presents the need to combine intersectionality and assemblage in confronting gendered oppressions, d. presents the ways in which laws are sites of discourses that are produced and, in turn, co-produce knowledge.

Utilizing critical discourse analysis as methodology, this thesis claims that the articulation of problems and solutions are not done in a neutral manner. Instead, as Jørgensen and Phillips define, discourse is “a particular way of talking about and understanding the world.”²¹ This way of talking and understanding the world is very much influenced by and influence contradictions between knowledge and practice that persist in given time and given place. Instead of analysing the text independently, the use of the mentioned literature provides that crucial connection between the CEDAW documents and the persistent contradictions in the praxis of struggling against gender oppression in the context of global capitalism.

This thesis, uses, in part, the method proposed by Fairclough in doing discourse analysis. It contains a text dimension and the discursive practice dimension.²² The text dimension identifies patterns in how relevant words pertaining to a. gender and women, b. vulnerability, marginalization, intersections, c. discrimination, d. economic rights are used in connection with one another, the construction that manifest transitivity or how emphasis is put in certain components of the construction. The discursive practice dimension analyses how the Committee, the State and the civil society understand and articulate problems and solutions in relation to their ideologies around discrimination, equality and economic rights.

In summary, the thesis analyzes the tensions and contradictions that the discourses deployed by the Committee, State and civil society reflect and enrich the debates around finding a theory of gender and economic justice in the age of hegemonic capitalism that sustains itself through economic and gendered relations.

Discourse Analysis

In the work *Law as Deliberative Discourse: The Politics of International Legal Argument – Social Theory with Historical Illustrations* by Oisin Suttle, international law is formulated as an arena and practice of deliberative discourse where parties and the politics the parties carry are engaged in communicative action.²³ The author underscores the relationship between international law and politics that are in constant interaction with one another.²⁴ Here, the concept that laws, in particular international law, are not merely sets of rules that parties have to comply with but are in fact influenced by or influence the agents who invoke or employ the law.²⁵ For the author, the framing that laws are rules to comply with does not take into account the complexity of law and implies that laws exist apart from or before politics as well as the agents that carry out their invocation.²⁶ Engaging with international law, therefore, is a process of normative invocation where agents and laws interact and where there is no such thing as law that is prior to the interaction: “Johnstone characterises international law as a justificatory discourse, substantially open, but constrained by a distinctive logic that limits the moves that can be made, and the

²¹ Marianne Jørgensen W, & Louise Phillips J, *Discourse Analysis as Theory and Method*, (SAGE, 2002).

²² Norman Fairclough, *Critical Discourse Analysis : the Critical Study of Language* (New York, 1995).

²³ Oisin Suttle, “Law as Deliberative Discourse The Politics of International Legal Argument—Social Theory with Historical Illustrations” in *Journal of International Law and International Relations* (2016), Vol. 12. pp. 151-203.

²⁴ Ibid.

²⁵ Ibid.

²⁶ Ibid.

arguments that can count as legitimate. Agents use law to ‘explain, defend, justify and persuade’.”²⁷ Quoting Johnstone, the author raises the public and performative character of the law where in the deployment of the latter, outcome based on the invocation of a law is not as central as to the element of its acceptability to the party or the parties or the interpretative community.²⁸ Habermas’ concept of life-world or the store of shared meanings and interpretations was used by the author to explain that, without this life-world, arguments cannot proceed. Also inspired by Habermas, the author proposes that one can proceed from just analysing how agents exchange arguments towards how the agents shape or are shaped by the arguments.²⁹

Agents contribute to the creation of normative values. They work both as limits and potentials. The nature of international law pertaining to its difficulty to demand enforceability asks us why activists still engage with the mechanisms found therein. As mentioned by the author: “As understood by Johnstone, legal discourse does not directly shape outcomes.”³⁰ The continued use by activists of such mechanisms can be traced to international laws’ propensity to facilitate discourses around concepts and practices that they have identified as crucial in achieving changes in relation to their particular causes. Activists treat it not much as rules but as a site where desires for radical transformation can be expressed.

These insights are instructive in understanding how the CEDAW treaty body, the Philippine government and Philippine civil society invoke normative views anchored in law and politics relating to discrimination and economic rights as well as the relationship of the two. All the parties insist on and reject certain ideas via discourse and arguments that are part and parcel of communicative action. As elucidated by the author, not every discourse of law is acceptable to a certain interpretative community. The legitimacy of a legal discourse is influenced by locations and situations of every interpretative community. In this process, CEDAW platform ceases to merely be made up of legal rules but becomes a site for the interaction of legal and non-legal discourses that may touch upon paradigms of theorizing the relationship between discrimination and economic rights. The discourses around these paradigms exist in life-worlds where meaning are shared but are also contested. The CEDAW platform is a crucial location where one can understand international law discourses via the wider discourse arena around discrimination and economic rights.

The life-world or how a legal discourse is situated in a web of other meanings is crucial in understanding where the legal discourse of discrimination and economic rights is hinged on and what legal future do international human rights laws, treaty bodies, state parties and civil society chart for them. A cursory reading of the documents recorded in relation to CEDAW reveals certain ideologies that parties carry which relate to issues around gender, discrimination, equality and economic rights. For instance, when identity-based inequalities are hyperfocused as basis of discrimination and non-attainment of equality as regards, economic rights, structural bases of material inequalities relating to economic rights are left on the margins. More, when there is atomization, separation of culture from economy where discrimination and inequality are treated as a problem of culture, there are other discourses, particularly, the role of economy in creating

²⁷ Ibid.

²⁸ Ibid.

²⁹ Ibid.

³⁰ Ibid.

and sustaining this culture are buried. There is much to look into in terms of how CEDAW is a site of discourse practice and communicative action for treaty bodies, state parties and civil societies. Specifically, because of its uniqueness in terms of its internal mechanism that puts together the goal of eradicating discrimination of women and their marginalization in the realm of economic rights, it may be ripe with instructive materials that can be referenced in formulating a theory of justice that aptly addresses the co-constitutive relationship of discrimination and deprivation of economic rights.

Chapter 3: Review of Related Literature

Recognition vs. Redistribution (Nancy Fraser)

Nancy Fraser, in *Recognition Without Ethics*, outlines the differences between the strategy of recognition and the strategy of redistribution.³¹ She considers the two strategies in relation to the quest for justice framework that responds to our times.³² In the said work, Nancy Fraser is trying to prove that the strategy of recognition is not antithetical to the strategy of redistribution. In doing so, she delves on the theoretical and practical distinctiveness of the two strategies but positions the distinctiveness as elements that can coalesce and reinforce one another.³³ The discussions presented by Fraser, particularly the ones highlighted hereunder are particularly helpful in analysing, with a critical lens, how discrimination, equality and economic rights are conceptualized and articulated in international human rights mechanisms.

Recognition

Fraser sees recognition as a newer political paradigm in contrast to the redistribution paradigm that, according to her, had dominated the theorizing about social justice for 150 years. Recognition highlights a theory of social reimagining and doing that puts to the fore the object of achieving a difference-friendly society.³⁴ To account for this, recognition is interested and is invested in the distinctive elements found in ethnic, racial and gender difference, among others. Somehow, in the said work, Fraser links the recognition paradigm to cultural politics and makes a distinct separation between cultural politics and social politics, which is linked to redistribution, by saying that the polarization of the two paradigms reflects the decoupling of cultural politics from social politics.³⁵ This decoupling is what the integration of recognition and redistribution seeks to address. However, in some parts of the said work, Fraser seemingly reinforces this decoupling by associating recognition issues to culture. Culture has a life of its own outside the economy. However, in some instances, cultural patterns can be traced from or are sustained by elements that are found in the economic sphere. Thus, to not be clear that the economy is also capable of creating and sustaining cultural patterns can exacerbate the disassociation of cultural politics from social politics, which, despite having their own particularities, may also share inseparable connections.

Redistribution

On the other hand, redistribution is articulated by Fraser as the objective of distributing wealth from the rich to the poor, the North to the South, and owners to workers.³⁶ The articulation most certainly relates the redistribution paradigm to struggles for egalitarianism that focuses on

³¹ Nancy Fraser. "Recognition without Ethics?" in *Theory, Culture & Society*, 18(2-3), 21-42 (2011), <https://doi.org/10.1177/02632760122051760>.

³² Ibid.

³³ Ibid.

³⁴ Ibid.

³⁵ Ibid.

³⁶ Ibid.

restructuring the economy. However, what is missing in this work by Fraser is the component that some redistribution frameworks also integrate the political as an integral component of economic structures. In this work, there is not much elaboration on differences between redistributive aims that go to the extent of questioning the very essence of hegemonic capitalism and that that only pertains to what is often called economism or an approach that does not integrate political paradigm in achieving transformations in the economic realm. This lack of elaboration or distinction may work against finding a site of redistributive struggle that is more ripe for integrating and achieving transformative recognition.

In fact, while Fraser distinguishes approaches that fall within the ambit of redistribution paradigm, the same careful nuancing is not adequately provided in terms of the redistribution paradigm. This is not surprising, since, Fraser positions redistribution paradigm as a more dominant paradigm in social justice theorizing. However, this is not necessarily the case now, especially in the area of international human rights law and gender.

Misrecognition

Misrecognition is the subordination of certain identities by the dominant culture. Fraser distinguishes between two existing strategies to combat misrecognition. The first, which she is trying to resist, is the identity model, whereby, as a response to msirecognition, the disadvantaged groups assert a single self-affirming group identity in place of a damaged identity caused by psychic structures instead of social institutions. In its stead, Fraser proposes an alternative framing of misrecognition that is not anchored in identity but social status.³⁷ Social status centers not the quest for finding recognition of group-specific identity but the achievement of a status wherein group members are afforded the status of full partners in social life.³⁸ Fraser constructs the disadvantages of the identity model by stating that it erases heterogeneity and treats culture as something that possesses clear-cut boundaries and linear flow.³⁹ On the other hand, the status model, being intent on achieving what she coined as participatory parity, necessarily confronts institutions and systems for the way they are organized in ways that deprive certain groups of people the opportunity to become social partners.⁴⁰ What is missing in Fraser's account is the thinking around the equal tendency of the status model to paint institutions as a possible neutral space sans misrecognition or a space where different forms of recognition and different forms of maldistribution relate to each other and the institution in indeterminate ways such that attempts to identify which arrangement constitutes misrecognition and which is maldistribution may lead to decoupling of inextricably linked processes of marginalization.

Maldistribution

Arguing against Honneth, Fraser contradicts the theory that changing the cultural order will address issues pertaining to maldistribution.⁴¹ She insists that not all maldistribution is produced

³⁷ *ibid.*

³⁸ *ibid.*

³⁹ *Ibid.*

⁴⁰ *Ibid.*

⁴¹ *Ibid.*

by misrecognition and vice-versa.⁴² In elaborating on the concept of maldistribution, Fraser raises that there are situations that can be linked from the economic order that is capitalism where accumulation of profit works as its *raison d'être*.⁴³ She finally considered that a theory of justice, to be responsive to the times, needs to go beyond culture and examine the ways in which economic structures foreclose participatory parity.⁴⁴

Ethics and Morality

Fraser presents the philosophical dilemmas that seem to hound the attempt to make a theory of justice where recognition and redistribution are integrated. The main philosophical dilemma she poses is the philosophical schizophrenia that marrying the two paradigms might give rise to.⁴⁵ The possibility of philosophical schizophrenia to arise is hinged on the attachment of recognition paradigm to ethics and redistribution paradigm to morality or justice.⁴⁶ Fraser, boldly claims that paradigms of justice are predominantly connected to morality- the right and just- not to ethics- the good and the good life.⁴⁷ In the work, Fraser conceptualizes norms of justice, equivalently, redistribution, as universally binding, while norms of ethics, redistribution, as relative and is restricted by cultural beliefs and practices, hence are more often, resistant to universalization.⁴⁸ Some of the proponents of redistribution, according to Fraser, insist on the neutrality that must be maintained in justice claims where fair chances at survival must be distributed regardless of differences.⁴⁹ The followers of recognition, on the other hand, present an alternative framing where what is good is amplified rather than equal treatment.⁵⁰ However, Fraser dispels this dichotomy by proposing that recognition may be detached from ethics and articulated as a justice claim.⁵¹

Not factored in in Fraser's claims is the fact that, currently, especially in legal institutions and platforms, like International human rights mechanisms, recognition paradigm being a more demandable right, is much more prevalent while demands for the enforceability socio-economic redistribution face controversy. In human rights law and in many jurisdictions, socio-economic rights are still bound by many concepts such as progressive realization, maximum available resources, that pose confusions as to their universal status as rights. Fraser, does not take into account in the subject work that in other contexts, such as in countries, like the Philippines, where the status of socio-economic rights remain contested, the predominance of redistribution paradigm can also be possible. Hence, in these contexts, even demands for redistribution are also restricted by certain factors, probably also including norms and beliefs around entitlement to socio-economic rights.

⁴² Ibid.

⁴³ *ibid.*

⁴⁴ Ibid.

⁴⁵ Ibid.

⁴⁶ Ibid.

⁴⁷ Ibid.

⁴⁸ Ibid.

⁴⁹ Ibid.

⁵⁰ *ibid.*

⁵¹ *ibid.*

Later Work (Cannibal Capitalism: How our System is Devouring Democracy, Care, and the Planet and What We Can Do About It)

In her later work, *Cannibal Capitalism: How our System is Devouring Democracy, Care, and the Planet and What We Can Do About It*, Fraser becomes even clearer in the integral role that gender plays in capitalism, and the other way around. She highlights the role of social reproductive labor as a form of labor in capitalism and outlined how this form of labor, along with racialized labor, has always been persistent in every stage of development of capitalism: “In capitalist societies, moreover, they assure the supply of commodified labor power from which capital sucks surplus value. Without this work of social reproduction, as I shall call it, there could be no production or profit or capital; no economy or culture or state”⁵²

Utilizing the specific field of care work, Fraser insists the inherent tendency of capitalism to cannibalize on care work and thus, the latter has very deep historical connections with the capitalist economy: “First, the current strains on care are not accidental, but have deep structural roots in our present societal order, which I have referred to in previous chapters as financialized capitalism.”⁵³ She further claims that social reproduction is necessary for capitalism to sustain itself.⁵⁴ Fraser surfaces the problem that besets socio-economic theorizing /analyses today, such is the tendency to overlook how capitalism devours on fields that go beyond the formal economic field.⁵⁵

Fraser depicts how capitalism systematically tries to delineate production and social reproduction, the latter being related, for the most part, with women.⁵⁶ While capitalism treats social reproductive work as inferior, less paid or not paid at all, capitalism to rely on it to sustain capital accumulation in the formal economies.

Informed by these analyses, it is crucial to identify and present problems and solutions around discrimination of women and gender dissidents in a way that takes into account the claim that subordination of social reproductive work and the gendered identities associated with them is deployed by capitalism, throughout history, in ways that serve the maintenance of the formal economies of capitalism. Hence, as Nancy Fraser concluded: “if that is right, then this crisis will not be resolved by tinkering with social policy,” and “the path to its resolution can only go through deep structural transformation of this societal order.”⁵⁷

In reference to Fraser’s works, I claim that not all every form of integration of the concepts of discrimination, equality with economic rights satisfy the requirements for a strategy to be called a strategy that highlights both the politics of recognition and redistribution. Thus, these strategies remain as only touching the surface level of the reach and complexity of gendered discrimination

⁵² Nancy Fraser, *Cannibal capitalism: how our system is devouring democracy, care, and the planet—and what we can do about it* (Verso, London, 2022), 208 pp., ISBN: 9781804292587.

⁵³ Ibid.

⁵⁴ Ibid.

⁵⁵ Ibid.

⁵⁶ Ibid.

⁵⁷ Ibid.

in economic rights. Cursorily, it is also claimed, that while CEDAW offers openings for the theorizing of and articulation of gendered discrimination in economic rights, along with its utilization of concepts such as substantive equality, for as long as it does not go to the extent of relating economic-rights issues to structures and systems that enable inequity and discrimination in the economic realm, it still remains inadequate in terms of addressing gendered discrimination in the economic aspect of life. Thus, the need to articulate gendered discrimination, equality and economic rights that integrate the politics of recognition and redistribution that highlights the discourse of, as Nancy Fraser articulates: “deep structural transformation of this societal order.”⁵⁸

⁵⁸ Ibid.

Chapter 4: Analyses

Woman as the Other of Human Rights: Re-Conceptualizing Gendered Oppression in the Economy by Articulating Gender-Related Issues Beyond Rights and Identity Discourses

Women's Issues as Human Rights Issues

CEDAW, tackles both civil and political rights and socio-economic rights, specifically relating to women. It positions gender and the specific issues that have been historically attached to women, as a class, alongside the discourse of human rights. In general, it puts to the fore how gender discrimination and the lesser status of women in societies manifest and are allowed in political and socio-economic and cultural situations and arrangements and elevate them as rights issues. As the introduction of CEDAW, itself claims, "Among the international human rights treaties, the Convention takes an important place in bringing the female half of humanity into the focus of human rights concerns."⁵⁹

The principles of CEDAW are rooted in the principles of the United Nations: "to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women."⁶⁰ As a human rights document, CEDAW places heavy emphasis on the analysis that women's issues are deeply related to women's lack of rights. Rights and protection are framed as fundamental in addressing discrimination of women in different social realms, including the economy. Achieving equality is set as the goal of the instrument and so it articulates and constructs the essence of equality: "The present document spells out the meaning of equality and how it can be achieved. In so doing, the Convention establishes not only an international bill of rights for women, but also an agenda for action by countries to guarantee the enjoyment of those rights."⁶¹ As Charlesworth and co-authors critique, CEDAW conceptualizes a specific kind of right, that of the liberal feminists in the West which conceive of right as the right to be treated as men.⁶² It does place rights, women's exclusion and inclusion, as the centrality of women's struggles where, there exist or have existed conditions of non-subordinated economic status of women and there have been advances made as regards women's economic subordination in areas other than rights. The conceptualization of CEDAW about women's conditions that places heavy emphasis on their subordinated status as rights holders neutralizes the theorizing that has developed around the nexus between economic orders and women's or gender discrimination. The universal and ahistorical claim of this subordination forecloses a more thorough analysis of its historical contexts and bases. The presumption that CEDAW presents pointing to the status of women as being the outsiders of rights, thus, putting them at risk, has the tendency to privilege rights struggles that place heavy emphasis on the representation of people in policies and laws. This also has the tendency to isolate the analysis and struggles pointing to structural issues, such as the very essence of the economic order, in which discrimination persists. In limiting the

⁵⁹ Ibid.

⁶⁰ Ibid.

⁶¹ Ibid.

⁶² Charlesworth, Hilary and Christine Chinkin. "Between the Margins and the Mainstream: The Case of Women's Rights." in *The Limits of Human Rights*, edited by Bardo Fassbender and Knut Traisbach, 205-221, (New York: Oxford University Press, 2019).

presentation of problems and solutions on the discourse of rights, other analyses that go beyond the rights discourse may be preempted. For instance, do CEDAW discourses enable a space where discrimination and equality in relation to economic rights are considered amidst the backdrop of Frances Raday's claim that: "Neoliberal philosophy undermines CEDAW by creating market conditions which make women's equal opportunity in economic and labor markets in theory axiomatic but in practice unattainable."⁶³ That said, while CEDAW speaks about substantive equality, or the state where women actually experience equality in everyday life, judging by the way the CEDAW instrument, the CEDAW recommendations and the way the State frames its compliance that centers laws and policies, women's issues not being able to go beyond the rights discourse is a barrier to achieving substantive equality.

Identity-Based/Sex-Based Subjectivity Precedes Economic Subjectivity: Equality vs. Systemic Transformation

CEDAW's focus on the identity "woman" may pose a barrier in tracing the link between discrimination and structural economic issues. In the instrument, the category "woman" is not heavily theorized and defined, albeit it being the focus of the whole instrument. At best, the woman is articulated as a recognized political, social, cultural and economic body, who, by virtue of their gender, is not given the opportunities equal to those of men.

The general way by which CEDAW describes the category "woman" effectively neutralizes the differences/stratifications between them in all other areas, including the economic. The only instance CEDAW tackles these stratifications is in the general recommendation that pertains to intersectionality and diversity: "Intersectionality is a basic concept for understanding the scope of the general obligations of States parties contained in article 2. The discrimination of women based on sex and gender is inextricably linked with other factors that affect women, such as race, ethnicity, religion or belief, health, status, age, class, caste and sexual orientation and gender identity."⁶⁴ However, this still, is not sufficient since the intersections presented are identity-based. It lacks in framing the nexus between these identities in systems and structures that rely on stratification for political and economic ends. For CEDAW, discrimination against women is linked with these other categories affecting women. However, ultimately it goes back to women and not to areas that affect people and communities, more generally. Moreover, it presents the diversity without stressing the discourse of power even within the group women. Thus, it avoids to go deeper into the structures behind the differences between people included in the category. One of the structures being, economic oppression.

On equality, as stated in its preamble, 'the Commission's work has been instrumental in bringing to light all the areas in which women are denied equality with men.'⁶⁵ Thus, still, the very object of the mechanism is for women to achieve a status where they are afforded the same space and value as given to men in the political, social, cultural and economic spheres. To achieve equality is the main of CEDAW. Hence, considering this pretext, strictly speaking, the instrument can go only as far as society has gone in relation to rights of men. However, the instrument provides

⁶³ Frances Raday, "Gender and democratic citizenship: the impact of CEDAW," in *International Journal of Constitutional Law*, Volume 10, Issue 2, 30 (March 2012), Pages 512–530, <https://doi.org/10.1093/icon/mor068>.

⁶⁴ Ibid.

⁶⁵ Ibid.

a rather different lens in defining equality by integrating the principle of enjoyment of the object equality: “The Convention gives positive affirmation to the principle of equality by requiring States parties to take “all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.”⁶⁶

The centrality of CEDAW lies in the category women. This fact is set amidst the context that currently, CEDAW is, as what Darren Rosenblum calls, the “central pillar of international gender equality law.”⁶⁷ The category women has become a subject of many contentions in recent history. The critiques directed against this category revolve around the insistence that the category is essentialist in the way it conceptualizes gender and its attached oppressions, leaving behind people who do not neatly fit the said category. Another important critique is that its attempt to construct a unitary category erases the reality that women are divided along socioeconomic lines. As the previous author also mentioned, the experiences of women vary from country to country and this experience “varies not only along national and cultural lines, but also especially along class lines.”⁶⁸

The tendencies that are the subjects of the two above-mentioned critiques manifest in the submissions made by the State and Philippine civil society, albeit with some departures. CEDAW’s focus on the identity category, women, re-inscribes the problems that come along with identity politics and gives the state much leeway to bury under the rubble the reality of what Neferti Tadiar raises while referring to situation of the Philippines: “The work of living is parsed continuously through categories of value and waste, categories that operate through complex local and universal systems for calculating social worth (sex-gender, race, ethnicity/nationality, sexuality, religion).”⁶⁹

The Philippines State generally uses the term women to refer to the main stakeholder of the CEDAW: “the reporting period saw increased support of the State on measures specific to women’s welfare and human rights.”⁷⁰ In most issues, the word “women” is used in a general sense. This is most specifically apparent where the issue relates to gender-based violence, rape, political participation, sexual harassment and discrimination. While the State is adopting the term gender-based violence, it uses the term so with frequent reference to violence against women and children and the Magna Carta for Women: “several laws were enacted promoting gender equality and equity, and providing greater protection against gender-based violence (GBV), consistent with the State’s Magna Carta of Women (MCW).”⁷¹ For instance, when the State speaks about women’s

⁶⁶ Ibid.

⁶⁷ Ibid.

⁶⁸ Ibid.

⁶⁹ Ibid.

⁷⁰ Committee on the Elimination of Discrimination against Women, *Ninth Periodic Report submitted by the Philippines under article 18 of the Convention, due in 2020**, *(2 July 2021), https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/SessionDetails1.aspx?SessionID=2670&Lang=en&fbclid=IwZXh0bgNhZW0CMTAAR3shHx4kvrpuWCkaL5tkFLiDaXRTNpx4frn4M_SthvnMw0iblMpmnxKXac_aem_AaBwy93gax9JPWsf3idL-w0QzIFXxjnSBXJujBfq0fxPbnpoEEI1fbZnOAx6GYlhVEEYR7z4aDfEsakStJLMdby.

⁷¹ Ibid.

participation in the public sphere, it speaks about it in general terms such as “gender quota” without further attempt to unsettle the perceived homogeneity of the group. Thus creating the impression that, a certain group of women is able to represent the rest of the group: “The State has initiated temporary special measures addressing barriers to women’s full participation in government, civil society, scholarships, trainings, and in other development processes. Included in PCW’s WPLA for the 18th Congress is the enactment of a Women’s Political Participation and Representation Law (WPPRL) supporting the “adoption of a gender quota and other temporary special measures as affirmative actions that would level the playing field and provide equal opportunities for women to run for public office”.⁷² The state provides temporary special measures that revolve around adopting gender quota that would provide equal opportunities for women to run for public office. Women’s participation in elections is construed as having more women politicians and the incorporation of women’s agenda. The state herein reinvoles the proverbial glass ceiling which has been claimed as one of the main goals of struggles for women’s liberation.⁷³ This kind of framing assumes two things: that women, regardless of other social locations, can represent the rest of the women in Philippine society. That their participation in politics can help in addressing the needs of all kinds of women. Second, that there can possibly be made a women’s agenda that are crafted by women politicians who represent the rest of the women of society. This is a kind of a recognition strategy that stabilizes the notion of homogeneity where women, who are more economically dispossessed are continuously being erased by burying the discourse relating to the various locations of women vis-a-vis the socio-economic realm. Burying the discourse of diversity in socio-economic context and needs may lead to analyses and solutions that can further place women who are socio-economically dispossessed in vulnerable situations. As political participation is framed as an important aspect in facilitating the integration of women’s rights, including economic ones, in the priorities of a state, this may foreclose the spaces for highlighting and expounding on the economic-rights related issues of women from oppressed classes. For instance, on the topic violence against women and girls, the State boasts about the conduct of pulong-pulong by the police, a community awareness dialogue to prevent crimes including VAW. Removed as context in the said submission is the fact that the pulong-pulong is also used in the anti-drug campaign which heavily impacted the economic lives of many poor women.⁷⁴

When the state qualifies the term “women”, it does so in contexts where there is a specific obligation in relation to that particular subgroup. Thus, “women” would be qualified in specific areas such as migration, rural condition, poverty, age, disability. Sexual orientation and the term LGBT are used only once.⁷⁵ The terms intersections, intersectionality, intersecting are used only alongside the discrimination. The State does not clarify which entails an intersecting form of discrimination except in one instance where it mentioned, the intersectionality of gender, ethnicity and religion in relation to the area of Women, Peace and Security.⁷⁶ This situation shows how the state interprets and articulates gender as a category. There is a certain integration of the framing of women’s diversity, in terms of their other vulnerabilities, but the framing of women as a homogenous collective is still very much pervasive in the state’s submission. Especially when the State expresses compliance, it refers to women, in general, without reference to the specific sub-

⁷² Ibid.

⁷³ Ibid.

⁷⁴ interview with IC, 2022.

⁷⁵ Ibid.

⁷⁶ Ibid.

categories of women that the compliance was in view of. The way laws and policies treat women as a homogenous unit has sparked many criticisms among women's rights advocates and activists, in general. Raday mentions that there is no single form of feminism which applicable to women belonging to different ethnicity, culture or class.⁷⁷ This has been identified by many as a factor that plays a role in the continued invisibility of the most marginalized among women and the downplaying of systems and structures that enable this discrimination. This failure to build a consistent discourse around the diversity of people belonging to the category women, intersectionality and the relationship between issues and systems and structures and merely focusing on specific and disconnected policies and programs serve to undermine one element-power relations and their bases- this is a hallmark of the process of atomization. Homogenization and diversity sans connection creates atomization. Atomization serves the system because it forecloses analyses that point to what is fundamentally wrong with the system. It serves the economic order since, it has been the modus operandi of the economic order to hide the relationship between the economy and politics and culture. In the field of education, Clarke identifies the tendency of neoliberal education to atomize educational institutions. Atomization, in such context, is described as providing "little or no recognition of how [educational institutions and elements] comprise larger systems or structures, or of how the meaning of each can only be understood in relation to that larger whole."⁷⁸

The civil society shows a similar pattern as the state in defining the category "women". In general, most of them still refer to the category as an identity that relates to sex assigned at birth. There are some organizations that complicate the definition by specifying lesbian, bisexual and trans women, but these are marginal. Some of the organizations, like STRAP and EnGender Rights explicitly mention trans women but to describe the groups' own vulnerabilities and not so much to unequivocally integrate the term in the collective term "women".⁷⁹ More, the categories trans women or transgender people are integrated without expounding on why they are covered by CEDAW. Without the attempt to expound on the relationship between CEDAW and categories that were not 'traditionally' covered by it, the opportunity to introduce connections between these categories that have their own set of particularities is missed. However, this is not a surprise since, as Rosenblum describes, CEDAW did not even bother to define the term "women" as it "was so universal that it needed no definition."⁸⁰ This framing shows how the discourse in CEDAW is still limited to a conception of gender and womanhood that is attached to sex. As posed by some criticism around this forwarded by some scholars, this forecloses an analysis that provides a connection between social systems and structures that organize societies in gendered terms for political and economic ends. For instance, in the realm of economic rights, trans gender people remain outside the discourse of social reproductive or feminized labor.

⁷⁷ Ibid.

⁷⁸ Matthew, Clarke, "Talkin' 'Bout a Revolution: The Social, Political and Fantasmatic Logics of Education Policy." *The Journal of Education Policy*, 2012. doi:10.1080/02680939.2011.623244.

⁷⁹ Society of Trans Women of the Philippines, *Transpinays in the Margins, CEDAW Shadow Report Submission and EnGenderRights, Inc., Report for the 86th Session Review on the Philippines*, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/SessionDetails1.aspx?SessionID=2670&Lang=en&fbclid=IwZXh0bgNhZW0CMTAAR3shHx4kvrpuWCkaL5tkFLiDaXRTNpx4frn4M_SthvnMw0iblMpmnxKXac_aem_AaBwy93gax9JPWsf3idL-w0QzIFXxjnSBXJujBfq0fxPbnpoEEI1fbZnOAx6GYlhVEEYR7z4aDfEsakStJLMdby.

⁸⁰ Ibid.

Since many organizations forwarded submissions that relate to the specific concerns of their organizations, the way they use the term is accompanied by the description of the subgroup to which their stakeholders belong. The descriptions qualifying the term “women” are words such as migrant, rural, in informal economy, among others. These are neutral words that do not reflect power and connections. Although these terms refer to the economy, the way they are presented as merely sites and sectors temper the possibility of finding a connection between identities and gendered economies and a discourse of ‘gender-sensitive’ economic rights in the periphery. This equally fails to capture the specific location of gendered economy of the Philippines in the hegemonic economic order. This location that is not surfaced in the discourse that rids of power relations is, as Neferti Tadiar explains, the fact that in the periphery of the dominant powers lie lands where “servitude is the code not only for a degraded, feminized (domesticated) kind of natural work, but for the wholesale naturalized subordination, degradation, and instrumental use of lesser life (predominantly lands/territories and peoples/races) to meet the needs and wants of greater, human life.”⁸¹ Ultimately, the focus on category “women”, albeit, in surface, suggests a sense of collectivity, the way it is deployed alongside economic rights manifests the commitment to the realization of individual rights more than collective rights. For instance, EnGendeRights, in tackling issues of transgender people in the field of education, delved one-sidedly in policies disallowing transgender people’s space for gender expression, thus, the freedom and autonomy to express ones self.⁸² However, Alvarez and Bauder, referencing several authors, exclaim that focus on individual rights tends to undermine collective rights that are demanded by many in the developing world.⁸³ According to them, this focus effectively veers away from the realities of power and “presumes that respect for civil and political rights will address forms of economic, social, and cultural oppression.”⁸⁴ On the issue of land, the women or gender component of land issue is tied to equality principles where what is highlighted even by the CEDAW recommendations is land registration schemes that do not afford sufficient titles to women. Another example is the submission made by the National Coalition of Rural Women where it was disposed that the main issue of rural women’s rights to lands and titles. Framing this as the main issue of rural women, despite the opportunity that the sector provides in terms of theorizing gendered economic rights, can be dangerous since, based on the thinking expounded by the aforementioned authors, “the insistence on stable property rights discourages challenges to those who already have them and avoids threats to the existing social/economic order.”⁸⁵

Also, the limitation as to the framing of who are the rights holders in CEDAW, which is limited to women, may potentially work against the goal of insisting on the interdependence and indivisibility of rights. This is so because the articulation of human rights violations with gender

⁸¹ Ibid.

⁸² Ibid.

⁸³ Ibid.

⁸⁴ Ibid.

⁸⁵ National Rural Women Coalition and National Land Coalition, *Shadow Report on the Situation of Rural Women in the Philippines*, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/SessionDetails1.aspx?SessionID=2670&Lang=en&fbclid=IwZXh0bgNhZW0CMTAAR3shHx4kvrpuWCkaL5tkFLiDaXRTNpx4frn4M_SthvnMw0iblMpmnxKXac_aem_AaBwy93gax9JPWsf3idL-w0QzIFXxjnSBXJuJBfq0fxPbnpoEEI1fbZnOAx6GYlhVEEYR7z4aDfEsakStJLMdby.

components are tied to identity categories that are essentialist and sectarian. It creates a frame of rights and rights holder that are classes of their own and may be tackled and addressed as outside or separable from other rights and rights holders. This may also result, as it has, in giving the duty bearers the leeway to tackle what is framed as a gender and identity specific human rights violations without touching upon its specific and differentiated manifestation in people experiencing intersectional oppressions. Some definitions of interdependence and indivisibility support the notion that to promote one kind of human right is also promoting the other.⁸⁶ However, parties to certain rights instrument can one dimensionally frame itself as adherent to the mandates of one right to the exclusion and disprivileging of the other. In this case, in tackling interdependence and indivisibility, the concept of cohesion as an integral aspect of the two principles, must be expressed and operationalized. Cohesion in this respect means that the right to non-discrimination and equality as well as the other rights in CEDAW should be framed as interdependent and indivisible from each other not in a way that reinforces the idea that the adherence to one right supports the promotion of the other. They need to be re-articulated as concepts that recognize that rights exist in specific socio-economic and politic contexts or systems such that these systems and contexts must be evaluated and rights injuries and promotions laid down in a contextual manner that doesn't resort to universalizing provisions that allow for the hierarchization and instrumentalization of rights. Interdependence and indivisibility should be taken to mean as tools that will prompt the evaluation and analysis of factors and other rights issues that bar the fulfillment of non-discrimination and equality in their gendered sense so that as what CEDAW wants to achieve, substantive equality, that which is actually experienced by gender minorities, is attained.

Vulnerability, Marginalization and Discrimination: Reconstructing Vulnerability, Marginalization and Intersection to Reflect Power, Movement and Assemblage

Vulnerability, marginalization and discrimination are discourses that are central to how CEDAW tackles women's and gender issues. Being so, they are persistent in documents submitted in relation to the mandates of the instrument. As central and persistent in these documents, these concepts help inscribe the meaning of women's and gender-based oppression and discrimination.

The state uses terms akin to intersectionality, vulnerability and marginalization. In terms of vulnerability, the State employs it to refer to the collective vulnerability of women to certain harms, such as violence and climate change.⁸⁷ It also uses the term to refer to women belonging to certain sectors and circumstances such as migrant women and girls. The State does not define what vulnerability amounts to and does not attach the term specific detailed contexts or causes. Marginalization on the other hand is used in conjunction with women with disabilities, pregnant, and senior citizens.⁸⁸ There is also an instance where the State mentions traditionally marginalized groups and cited by example IPs, women, poor households.⁸⁹ The relationship between gender issues and other forms of marginalization is at best presented incidental, thus, foreclosing the

⁸⁶ James Nickel, *Rethinking Indivisibility: Towards a Theory of Supporting Relations between Human Rights*, University of Miami Law School University of Miami School of Law Institutional Repository, 2008.

⁸⁷ Ibid.

⁸⁸ Ibid.

⁸⁹ Ibid.

analysis that women from these groups, via structures and systems are intentionally targeted. For instance, in referring to migrant women, the State erases the element of power relations through the frame, “the State implements measures to address vulnerabilities due to migration of unskilled migrants.”⁹⁰ Intersectionality, as mentioned above, is being used by the State mostly to refer to certain acts committed against women that may be considered as motivated by multiple factors such as discrimination and violence. Intersectionality is not attributed by the state to certain groups. In this regard, we can see the States’s non-expansive conceptualization and articulation of the terms. This non-expansiveness goes with non-inclusion of terms referring to arrangements, systems, and organizations that give rise to vulnerability, marginalization and intersections. Hence, they are linguistically presented as without active agents. Thus, as stated above, migrant women are presented as a specific group of people, who because they go abroad, become vulnerable. The way the attributes that are attached to vulnerability and marginalization are framed in a way that doesn’t highlight their connections. This may stem from the fact that, in CEDAW, there is not enough definition given to intersectionality. Also, this shows the limitations of intersectionality in the way that it can be interpreted as it has been interpreted as layers of autonomous identities that are static and not co-constitutive of one another. As Jabir Puar critiques about intersectionality, there is no entity nor identity that neatly falls as reactive community formations or identity politics. Thus, intersectionality being an analytical framework that treats race, “class, gender, sexuality, nation, age, religion as separable analytics, assemblage is more potent to capture merging and dissipation.”⁹¹ These framings of intersectionality presented by CEDAW and some of the interpretations given to the principle give the State much leeway to present itself as tackling the particularities of certain groups of women without going into the depth of the state’s political and economic interests in this specific marginalization. In sum, these framing erase one thing: power and the relationships surrounding it. The integration of the lens of power is crucial in linking gendered vulnerability/marginalization to the economy. As Michel Foucault elucidated, subjects are formed historically through various modes and one of which is the modes of inquiry, a mode where there is objectivizing of the productive subject, the subject who labors, in the analysis of wealth and of economics. The failure to examine and articulate through the subjects, what Foucault calls very complex power relations and relations of production and signification leads to the incomplete representation of the subject and its making.⁹² Hence, the consequence of an incomplete analysis of problems and solutions.

The way the State recognizes gendered stereotypes and harmful practices is heavily attached to culture and behavior of private individuals: “the Chapter highlights a “whole-of-society” approach involving family, schools, religion, media, CSOs, and the private sector to transform discriminatory gender norms and culture and to create an enabling environment that builds a culture supporting gender equality and women’s empowerment.”⁹³ It detaches stereotypes and harmful practices to state acts, policies and practices as well as to other structures, other than culture, that perpetuates or reinforces these stereotypes and practices, including the economy. Surely, the state does not present gender and the status of women as tied to the dominant characteristics of Philippine society in the political and economic senses. As Ratna Kapur warned

⁹⁰ Ibid.

⁹¹ Ibid.

⁹² Michel Foucault, M., “The Subject and Power”, In: *Critical Inquiry*, Vol. 8, No. 4, pp. 777-795 (The University of Chicago Press, Chicago: 1982)..

⁹³ Ibid.

against centering cultural practices and standards in addressing gender inequality. She relates this to the possibility of obscuring the history of how colonial encounters were responsible of the inequalities as well as the erasure of “the ways in which global economic structures and neoliberal models are implicated in producing and reinforcing some of the gender stereotypes that we are witnessing in the workplace both here and there.”⁹⁴

The use of vulnerability and marginalization without explanation and acknowledgment of the bases of the marginalization and vulnerability veers issues around gender and women away from other structural issues, including economic ones that are at the core of them. The use of the terms continue to make invisible the accountability of the state in instituting, promoting and enabling systems and structure that pave way for gendered oppressions. The State, too, does not construct the issues in a way that surfaces the oppressive component of them. In the seldom instances that it does so, it is only as regards relations between and among private individuals, families, culture and religion. In the only instance that the state mentioned patriarchy, it did so to refer to mindset: “the State uses a “whole-of-society” approach in transforming traditional patriarchal mindsets that perpetuate gender stereotyping and discrimination of women in order to address the root causes of women and girls ’vulnerability to violence.”⁹⁵ In terms of economic structures, issues of inequality are presented in a neutral way. Such that, although there are areas where companies are mentioned in relation to gendered inequalities in the workplace, the general oppressive structure that governs the system of work remains invisible.⁹⁶ There is no surfacing of division and oppression on the basis of class and how the state benefits from and arises therefrom. When vulnerability and marginalization are used, specifically in relation to areas that deal with the economy, the framing of problems and solutions usually relate to integration in the mainstream economy. Vulnerability and marginalization of women in the economic realm is constructed as may be resolved when they achieve the status of rights of men under the equality principle. This does not take into account that even the inferior economic status of women is linked to the generally, also bad, economic condition faced by men. Here, the state is being portrayed as doing something in the economic realm, that is to try to address the barriers in achieving equality between women and men. What these frames undermine is, what Ratna Kapur claims as a presupposition that history is not merely about the history of gender subordination committed by men against women but the history of the “the broader economic and political subordination and expropriation of another nation's labour, resources, land, raw materials and market, and the exclusion of the native - both men and women - from sovereignty and legal entitlements.”⁹⁷ Quoting Nussbaum, Kapur, raises the need for an approach that does not prioritize the need of women but fights against all forms of hierarchy.⁹⁸

Aside from the terms vulnerability and marginalization, which are used in the same breath as the State does, civil society also uses the term invisibility to relate vulnerability of women who are engaged in certain economic production such as fishing and farming. The way that civil society

⁹⁴ Ratna Kapur, “The Citizen and the Migrant: Postcolonial Anxieties, Law, and the Politics of Exclusion/Inclusion (May 2007)”. In *Theoretical Inquiries in Law*, 8:2 pp. 537-570 (2007), Available at SSRN: <https://ssrn.com/abstract=2281076>.

⁹⁵ Ibid.

⁹⁶ Ibid.

⁹⁷ Ibid.

⁹⁸ Ibid.

packages this is that women play major roles in these sectors but their contribution is often neglected. While this is true, this also has the tendency to make a division between and women in industries that, as a whole are being dwarfed and devalued. Farming and fishing has become in the Philippines has become a form of social reproductive work where the labor exerted in these areas has been made to serve only the needs of the families and communities and the demands for raw materials of the global productive labor. To take into account the similarities between women and men in this respect is necessary in the context of the Philippines, since, as Tadiar presents economic sectors such as domestic workers, service workers and farmers, regardless of gender, as capitalized reproductive labor that “produce and subsidize the services and goods that maintain the minimal life or necessary consumption of human capital.”⁹⁹

In relation to the above, the kind of framing that civil society presents points to the desire to acquire political representation of this group. Political representation, as described by Tadiar is something that acts as part of the formal system that is the complex overlay and provision of participation in a globally governed and juridically regulated world.”¹⁰⁰ If we ascertain the meaning of representation by the way submits its compliance and accomplishments before CEDAW, it is safe to expect that it would do so by way of referencing development principles such as gender gap and human development. As Tadiar mentions, these graphs, maps and numbers transform concrete human lives to analytical tools. More, she cites how these same representational tools are used by technocrats, fund managers and global monetary systems (IMF) “make people into populations, aggregate statistics that can figure as information for dominant actors who are not them, while derealizing peoples’ own roles and capacities as subjects in the world.”¹⁰¹

Some organizations point to economic structures as source of economic marginalization of women but are not clear in elucidating these structures being mentioned. In topics that relate to socio-economic rights, the terms equality and men are used often to describe the disadvantaged position that women take relative to men. Also, the term insensitivity is used to describe how people from government institutions handle cases pertaining to women. This is the limit of the equality framework that zero in on gender and other identity categories produces frames such as insensitivity and disadvantages. These terms fail to capture the complex essence of discrimination which is characterized, in reality by oppressions emanating from social arrangements. This has been the limit too on discourses around intersectionality that are heavily attached to identity markers and not departing towards movements, assemblages and systems. To be fair to some civil society organizations, specifically the National Coalition of Rural Women and the organizations under the Women’s Rights Group pointed to the fact that rural women’s marginalization happens at the same period the policies supporting trade liberalization are being passed and implemented.¹⁰² There is also a raising of negative impacts of privatization, liberalization and commodification of lands but such raising was framed using a soft tone that seems to place restraint in criticizing these systems: “They should address the negative and differential impacts of economic policies, including agricultural and general trade liberalization, privatization and the commodification of land, water, and natural resources, on the lives of rural women and the fulfillment of their

⁹⁹ Ibid.

¹⁰⁰ Ibid.

¹⁰¹ Ibid.

¹⁰² Ibid.

rights.”¹⁰³ This is set amidst claims, including of the aforementioned two authors, in reference to Kapur, the futility of pallation as regards rights-related liberal projects.¹⁰⁴

CEDAW is embedded with certain provisions that touch upon systems and structures. For instance, it has a provision that directly mentions the need to eradicate apartheid, all forms of racism, racial discrimination, colonialism, neo-colonialism, aggression, foreign occupation and domination and interference in the internal affairs of States in order for men and women to fully enjoy rights. However, this remains not operationalized and actualized in a way that will mandate states and civil society to frame women’s and gender discrimination and the that takes this provision into account.

Discrimination and Economic Rights: Articulating Equality as Being Associated with Systems, Structures and Orders that Foreclose Women’s Actual Enjoyment of Economic Rights

Gender-Based Discrimination: Beyond Equality, Occurrence, Behavior and Culture

Discrimination is expressed by the State as a distinct issue from all other issues of women. Based on the state’s usage, it is conceptualized by the State as a term that is tantamount to unequal treatment to women vis-a-vis other sectors, specifically men.¹⁰⁵ Thus in expounding on income discrimination, the point of reference in determining discrimination is the income that men receive. See for example this framing of income discrimination against rural women versus rural men: “one of the reasons for the wage gap between men and women farm workers is the perceived incompetency of women in manoeuvring farm machineries.” As a solution, the State poses, the introduction of gender friendly machineries and technologies in order to empower women and encourage their participation.¹⁰⁶ Ratnu Kapur points out the dangers in adopting the equality frame.¹⁰⁷ For her, formal equality constitutes an approach that requires the same people to be treated similarly.¹⁰⁸ However, as she raises criticisms against this approach, she mentions how this approach justifies the unequal treatment of groups of people who are perceived different, although, the difference is a product of “historic or systemic discrimination.”¹⁰⁹ For instance, heavily unexamined and unelaborated in the report of the State is the fact that work that has been historically associated with women or non-men are devalued. To follow the logic of Ratna Kapur concluding that: “If the individuals or groups in question are seen as different, then no further analysis is required; difference justifies the differential treatment,” to work on the frames of difference, sameness and equality, will relegate to the margins the question of, why in the first place, social reproductive work and its equivalences have become sites of unpaid or cheap labor.¹¹⁰ Chandra Mohanty even goes as far as claiming that even substantive equality cannot usher in

¹⁰³ Ibid.

¹⁰⁴ *ibid.*

¹⁰⁵ Ibid.

¹⁰⁶ Ibid.

¹⁰⁷ Ibid.

¹⁰⁸ Ibid.

¹⁰⁹ Ibid.

¹¹⁰ *ibid.*

transformative change because it does not amount to “epistemic shift from the liberal human rights paradigm.”¹¹¹

Although, in most usages, the State, generally just mentions discrimination without reference to any category. When discrimination is expressed it is framed so as an occurrence. Thus, also without an active agent and with absence of the lens of power. For example, in the field of education, the state focuses on instilling gender sensitivity among students in combatting discrimination instead of targeting schools and policies that give schools unbridled power: “Owing to their mandate of educating and honing young minds, educational institutions 23 have implemented measures aimed at instilling awareness among students on the existing gender discrimination and double standard perception against women.”¹¹² The State articulates discrimination often in conjunction with stigma and stereotype that makes it appear like these three are interrelated in such a way that they may be traced from behavior and attitude. For instance, the State, while mentioning a whole-of-society-approach relates the approach one-sidedly to culture: “The Chapter highlights a “whole-of-society” approach involving family, schools, religion, media, CSOs, and the private sector to transform discriminatory gender norms and culture and to create an enabling environment that builds a culture supporting gender equality and women’s empowerment.”¹¹³ Hence, when discrimination is recognized as a problem, the solutions that are provided revolve around terms such as gender-sensitivity and mainstreaming programs. Although, the Convention, in itself, despite consisting of many mandates as regards the situation of women, is titled with discrimination against women as the focal thrust, the state expresses discrimination as a distinct category. The way that the State relates discrimination to perception, stigma and stereotype positions discrimination as a matter within the realm of culture or psyche and removes it outside the realm of politics and economic.

There are differences in the way organizations frame discrimination. For instance, with organizations that focus on women’s issues or women with disabilities, discrimination is generally articulated as a gender or women’s issue. Even for organizations that focus on women in an economic context, such as rural women, discrimination is also used to refer to gender discrimination with little to no mention of class-based discrimination. For example, the National Coalition of Rural Women highlights discrimination in decision making in economic production between rural women and rural men but not the discrimination between rural and urban women workers or workers in general by making one of the focal points of their report the disparities between the roles that rural men and women play in the economy.¹¹⁴

The state attaches discrimination to status, perception and behavior. Thus, the solutions it envisions for issues around discrimination revolve around empowerment, gender-sensitivity trainings and punitive measures against individual acts of discrimination. In this sense, the identity woman together with the subordination attached to it is a product of culture that seeps through individual or collective psyche. It is articulated as identity-based as evidenced by caricaturing women as a homogenous collective not bound by other forms of differentiation and discrimination.

¹¹¹ Chandra Mohanty, “*Under western eyes*” revisited: *feminist solidarity through anticapitalist struggles*, 28(2), *Signs: Journal of Women in Culture and Society* 499 (‘(2003).

¹¹² Ibid.

¹¹³ Ibid.

¹¹⁴ Ibid.

Gendered discrimination is detached from other types of differentiation and discrimination that are needed by societies to fuel its current state. This way of treating discrimination results to the erasure of subordination based on other differences that are present among and between women themselves or are perpetrated by women to other subordinate subjects. Hence, the resort to punitive measures is not taken as being vulnerable to be used against people who are less in the political and economic sense. For as long as discrimination is not linked to other systems of othering such as class-based discrimination, then, the discourse of gendered discrimination may be weaponized against other subordinated groups. As problematized by Kalpana Wilson, the incorporation of gender equality sometimes tend to instrumentalize it in a way that does not only equate to being insufficient in addressing gender issues but as having the effect of relying on or reinforcing gendered structures and relations.¹¹⁵

Also, for as long as discrimination is treated as status-based, the specific gendered and other types of discrimination of women committed by people from within and outside the category and systems will remain invisible. The link that the state presents between culture and discrimination further strengthens the framing that tries to blur the relationship between culture and economy, thus, between discrimination and the economy. There has been some thinking made around the dangers in highlighting inferiority of certain cultures without contextualizing them in terms of their relationship with local and global political and economic backdrops. This may serve to demonize or produce or reproduce discrimination towards certain groups without regard to the bases of these cultures. The stakeholders of gender sensitivity trainings for men are, for most part, from the poor sector: “the ERPAT framework is integrated in the Conditional Cash Transfer Program (CCTP) where one of the modules of Family Development Sessions (FDS) teaches recipient parents on shared responsibility in caring for their children.”¹¹⁶ Some organizations in the civil society depart from this framing concerning indigenous people: “similar to the State justice system, girl children going through the tribal justice system also suffer from re-traumatization...”¹¹⁷ A consistent use of the framing used by the state may lead to the stabilization of ideas that gender stereotypes are most pervasive in low-income families. This is a danger that Montoyo warns about exclusionary framing in gender-based violence policies, albeit the exclusion in his writing refers to race, his recommendation may be made applicable to contexts where exclusion is done along class lines: “the subsequent sections distinguish between inclusionary intersectional practices that incorporate the different experiences and needs of women in productive ways and problematic exclusionary approaches that create and exacerbate dichotomies between cultural “insiders” and “outsiders.”¹¹⁸

¹¹⁵ Kalpana Wilson, *Towards a radical re-appropriation: gender, development and neoliberal feminism. Development and Change*, 46 (4). pp. 803-832 (2015), ISSN 0012-155X.

¹¹⁶ Ibid.

¹¹⁷ Women’s Legal Bureau, *Voices, Choices, Participation: Weaving the Girl Child’s Experience Philippine CEDAW Shadow Report 2023*,

[https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/SessionDetails1.aspx?SessionID=2670&Lang=en&fbclid=IwZXh0bgNhZW0CMTAAR3shHx4kvrpuWCkaL5tkFLiDaXRTNpx4frn4M_SthvnMw0iblMpmnxKXac_aem_AaBwy93gax9JPWsfidL-](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/SessionDetails1.aspx?SessionID=2670&Lang=en&fbclid=IwZXh0bgNhZW0CMTAAR3shHx4kvrpuWCkaL5tkFLiDaXRTNpx4frn4M_SthvnMw0iblMpmnxKXac_aem_AaBwy93gax9JPWsfidL-w0QzIFXxjnSBXJuJBfq0fxPbnpoEEI1fbZnOAx6GYlhVEEYR7z4aDfEsakStJLMdby)

[w0QzIFXxjnSBXJuJBfq0fxPbnpoEEI1fbZnOAx6GYlhVEEYR7z4aDfEsakStJLMdby.](https://doi.org/10.1093/sp/jxt020)

¹¹⁸ Montoya & Agustin, *The Othering of Domestic Violence: The EU and Cultural Framings of Violence against Women*. *Social Politics*, 20(4), 534-557 (2013), <https://doi.org/10.1093/sp/jxt020>.

Equality: Women Versus Men

The overall theme of equality and non-discrimination influences the way economic rights of women are shaped. The political, cultural, social and economic spheres are experienced by men differently on account of their social locations that relate to many factors, including the economy.

The pervasiveness of discrimination in rights discourse is still very much present. Discrimination has been heavily associated with identity politics and status recognition struggles, where, a certain group of people is framed as collectively disadvantaged and hence, their liberation will be facilitated by their recognition or integration in the society.

CEDAW provides an opportunity to frame economic issues as gender issues and vice versa in line with Part 1, Article 1 of the instrument which provides: “For the purposes of the present Convention, the term “discrimination against women” shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.”¹¹⁹

However, even in tackling these rights, there seems to be a tendency to delink gender inequalities from overall economic arrangements that further gender discrimination or economic arrangements from gender discrimination that further economic inequalities. This is despite the instrument’s admission that: “convinced that the establishment of the new international economic order based on equity and justice will contribute significantly towards the promotion of equality between men and women.”¹²⁰

The framing that CEDAW has for discrimination is deeply linked to the goal of achieving equality between women and men. It places discrimination as a pervasive problem and the extensiveness of it hampers the achievement of the said equality. Hence, equality is the ultimate goal of CEDAW via the eradication of discrimination against women. While the mechanism also mentions the goal of ensuring “the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms,” this is nonetheless qualified by the proviso that the said goal will be achieved on the basis of equality with men. CEDAW has many dimensions, however, it still further fortifies the primacy of civil and political rights in the form of status recognition as the introduction of the instrument states: “The legal status of women receives the broadest attention. Concern over the basic rights of political participation has not diminished since the adoption of the Convention on the Political Rights of Women in 1952.”¹²¹

CEDAW states: “Recalling that discrimination against women violates the principles of equality of rights and respect for human dignity, is an obstacle to the participation of women, on equal terms with men, in the political, social, economic and cultural life of their countries, hampers the growth of the prosperity of society and the family and makes more difficult the full

¹¹⁹ *ibid.*

¹²⁰ *Ibid.*

¹²¹ *ibid.*

development of the potentialities of women in the service of their countries and of humanity,”¹²² This is framed insinuating the idea that, discrimination is a separate phenomenon that hinders women from participating economic life and that is detrimental the development of the private and public sphere. In this kind of construction, the economy is portrayed as neutral sans discrimination and by, itself, is not responsible for the it.

Also, being anchored in the concept of equality, discrimination is linked to what men possess in terms of rights. The rights of men are still the measure in determining whether rights of women are achieved. The instrument’s focus on identities and the inequality that persists between them, forecloses the opportunity to surface the forces and the interactions between them that make women denied their fundamental rights, including socio-economic rights, that are outside the division between men and women. Rosenblum tackles this by pointing out that the socioeconomic realm is constituting factor in the formation of the relationship between women and society and that it plays a role in determining the power relations between men and women.¹²³

In specific areas like reproductive rights, the instrument insists that reproduction is a social function but concludes that the burden should be shared by men and women. It does not highlight the role that society, in particular, the state, should play in reproduction. The introduction of the instrument states that: "that a change in the traditional role of men as well as the role of women in society and in the family is needed to achieve full equality of men and women".¹²⁴ It does recognize the role of society in raising families but it does so with restraint so as to avoid an articulation that removes raising families from being a private matter: “Society's obligation extends to offering social services, especially child-care facilities, that allow individuals to combine family responsibilities with work and participation in public life.”¹²⁵ Hence, ultimately, reproduction is privatized. Privatization of reproduction has been discovered as a site of great discrimination against women that, to retain it as a private matter, substantially equates to the division of labor. As Nancy Fraser has theorized, the division of labor, men, being assigned to productive work while women, assigned to social reproductive work, has been an integral part of the maintenance of capitalism and its unequal economic relations as well as gendered relations.¹²⁶ The detachment of reproduction to the economy is manifest in how CEDAW, still, does not explicitly tackle reproduction as labor and as an area that is anchored in the economy. This further strengthens the persistent attempt to divide and draw a line between productive and reproductive labor that has played a major role in instituting or reinforcing gendered discrimination. For as long as this area of CEDAW remains unaddressed, the claim that the instrument seeks to erase the divide between the public and the private will not manifest in the instrument. As Charlesworth and Chinkin claim, CEDAW somehow actually reinforces the divide between the public and the private by not displacing its focus on public life.¹²⁷ Assessing the submissions of the State as mentioned above,

¹²² Ibid.

¹²³ Ibid.

¹²⁴ *ibid.*

¹²⁵ *ibid.*

¹²⁶ Ibid.

¹²⁷ Hilary Charlesworth and Christine Chinkin, “Between the Margins and the Mainstream: The Case of Women’s Rights,” in Bardo Fassbender, and Knut Traisbach (eds), *The Limits of Human Rights* (Oxford, 2019; online edn, Oxford Academic, 23 Jan. 2020), <https://doi.org/10.1093/oso/9780198824756.003.0015>.

the State seems to not be fully interested in taking on the obligation of the familial organization and private life.

Gender Discrimination, Economic Rights and the Neoliberal Colonial System

The instrument mentions the right to education. However, it does not go deeper in acknowledging the intersecting factors that lead to systemic inequality between men and women in access to education. The intermingling of identity-based marginalization of women through the subordination of their right to participate in the public sphere, including in education, has intermingled with other factors that have made it more difficult to resolve such subordination by only addressing the issue of discrimination and not the other factors, economic included, that further this kind of arrangement: “states Parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women.”¹²⁸

While CEDAW explicitly understands and expresses the role of cultures and traditions in restricting women’s ability to enjoy fundamental freedoms, it does not, explicitly do so in the same way in terms of the economy: “The third general thrust of the Convention aims at enlarging our understanding of the concept of human rights, as it gives formal recognition to the influence of culture and tradition on restricting women's enjoyment of their fundamental rights. These forces take shape in stereotypes, customs and norms which give rise to the multitude of legal, political and economic constraints on the advancement of women.”¹²⁹

When it comes to the economy, CEDAW is less explicit. It discusses the gendered economic arrangements that treat women as inferior but does not explicitly admit the existence of economic orders that create, reinforce or prey on the subordination of women. For instance, CEDAW mentions culture, in general, but would depict, with particularity, certain economic arrangements like employment.

In some areas, specifically those relating to gender-based violence, rape and trafficking, political participation, not much is mentioned as to how they have economic dimensions. The instrument speaks about women as economic subjects such as when it tackles rural women, but, it does not elaborate on the economic aspect of the categories in general matters concerning gender-based violence and stigma and stereotypes. Such that, when you read the provisions concerning this, it gives the impression that women, are homogenous subjects in terms of these areas.

Economic rights, in particular, employment, education health, water and sanitation, poverty are couched by the State under the framing of discrimination and equality. Discrimination that is taken to mean as difference of treatment between men and women and equality as the goal of eradicating this difference of treatment. This is evident in the submission by the state and is in fact reiterated as a goal that is in consonance with the Philippine Constitution: “The 1987 Constitution guarantees the equality of all persons before the law. Under the equal protection clause, each individual is dealt with as an equal person in the law. The equal protection clause, coupled with existing laws protecting women and children, ensures access to justice of women,

¹²⁸ *ibid.*

¹²⁹ *Ibid.*

without fear of discrimination.”¹³⁰ Discrimination is not articulated as subordination of women in order to maintain certain political and economic arrangements. Hence, in the provision of solutions, it is enough for the state to state as goal the integration of women in mainstream economic undertaking or projects: “These agencies are encouraged to institutionalize policies and systems to serve as temporary special measures in providing equal opportunities for women.”¹³¹ This integration is set amidst the backdrop of great economic dispossession that maintains gendered social relations. As the State so says: “The State continues to intensify its efforts to facilitate the transition of informal workers to formal economy. To further uphold rural women’s right to resources for food production, the State developed interventions including training on technologies (production, post-harvest, and processing); providing farm inputs (fertilizers and planting materials); facilitating loans/credit; and giving market assistance expedited by local governments for farmers, fisherfolks, and groups of women.”¹³² The State does not seem interested in addressing the economic relations and arrangements as shown by the two ways it addresses socio-economic issues of women: a. By integration and b. By providing them amelioration and minimum right while depriving them through economic dispossession. Integration can only accommodate certain groups of women and amelioration can only provide subsistence in order to survive. Both do not count as eliminating discrimination. More, these programs serve to justify or give semblance of legitimacy to policies that maintain economic systems that are experienced by majority of the population as problematic. For instance, the TRAIN law, which has received many criticisms for being an oppressive form of taxation is justified through this framing: “The State has also implemented an Unconditional Cash Transfer Program (UCT), which is the biggest tax reform mitigation program under the TRAIN (Tax Reform Acceleration and Inclusion) Law, providing cash grants to poor households and individuals who may not benefit from lower income tax rates provided in the aforementioned law, but may be adversely affected by rising prices.”¹³³ This is in line with what Kalpana Wilson argues: “approaches to gender which are currently being promoted within neoliberal development frameworks, while often characterised as ‘instrumentalizing’ gender equality, in fact rely upon, extend and deepen gendered inequalities in order to sustain and strengthen processes of global capital accumulation in several ways.”¹³⁴ The integration of economic rights of women in the mainstream economy can be easily framed sans the analysis that women, always have had roles to play in the economy, despite being devalued for specific historical reasons.

Additionally, STRAP also considers the fact that LGBTI women are in the informal economy to contribute to their lack of economic power.¹³⁵ The proposal that STRAP forwards is the integration in the formal economy. This is a contentious framing since the formal economy also possesses burdens and vulnerabilities to women. The formal economy is bound by state regulations and trajectories that may see the flourishing of some women but the much marginalization of the rest. The informal economy needs more freedom and social protections must be provided regardless of which economy people are integrated in. This furthers the discourse that legitimizes

¹³⁰ Ibid.

¹³¹ Ibid.

¹³² Ibid.

¹³³ Ibid.

¹³⁴ Kalpana Wilson, *Towards a radical re-appropriation: gender, development and neoliberal feminism*. Development and Change, 46 (4). pp. 803-832 (2015). ISSN 0012-155X.

¹³⁵ Ibid.

the division between the formal and informal economy, the informal economy being the social reproductive work. This also legitimizes the working of the state in the informal economy where state regulation and governmentality persists.

In the health aspect, STRAP highlighted HIV/AIDS and put forward a solution relating to treating *transpinays* (Filipino trans women) as a separate category in the key population in HIV/AIDS policy.¹³⁶ This seems to be a move to inscribe in the policies the specificities of the *transpinay* experience around HIV/AIDS. However, the very specific focus on HIV/AIDS and establishing it as major problem, may foreclose the identification of other health issues faced by trans women. There is also a legitimizing of the Universal Healthcare by calling to include trans women in universal healthcare coverage. The universal healthcare has been criticized as being part of a strategy to privatize the healthcare system in the Philippines. The deprivation of the commons is legitimated by the discourse that *transpinays* should become part of the universal healthcare system which is criticized as being part of the overall schema to privatize and deregulate the healthcare system in the Philippines.

In connection, there are two ways by which organizations frame economic rights in relation to gender. One, using the discrimination frame, where women, are inferior in status in terms of the rights and benefits of the economy. The other, where women, suffer the most in the economic problems of society. In the first one, being captured as a form of discrimination, women are presented as subordinate in economic relations because of their gender. In the second, there is an economic problem where the woman is at a more disadvantaged position. Both articulations are insufficient to encapsulate the entanglement of the inequalities and subordination brought upon by what may seem to be strictly gender and strictly economic social relations and arrangements. This discourse still seems to be influenced by the influence of old debates around how the issues of women are subordinated in economic issues and the other way around. This manifests the clashes that persist in theorizing around this area that still manifests as unnecessary attempts to put one category as primary and the other as secondary- the categories relating to gender and class. In these clashes, what fails to be captured is the co-constitution where class may be a modality of gender and gender a modality of class.

The way that the State and civil society frame economic rights and discrimination relates to what Nancy Fraser argues: “Mapping recent shifts in the institutionalization of economy and culture, I conclude that late-capitalist forms of sexual regulation are only indirectly tied to mechanisms for the accumulation of surplus value, hence that struggles against heterosexist misrecognition do not automatically threaten capitalism, but must be articulated to other (anticapitalist) struggles.”¹³⁷

Economic rights related by the state to gender or women, through a construction that also portray the problems as being incidences: “Poverty incidence among women is higher in rural areas compared to urban.”¹³⁸ Food and water are followed by term such as insecurity and are mostly present in paragraphs that also tackle poor women and men. The placement of these terms alongside terms relating to gender projects that they are adjectives for a sub-group of women that

¹³⁶ Ibid.

¹³⁷ Ibid.

¹³⁸ Ibid.

need special protection or are more affected by such incidence: “The women sector is among the basic sectors with the highest poverty incidence along with farmers and fisherfolks,”¹³⁹ Insecurity is portrayed as having to do with practices of women and communities and does not have structural and systemic root causes: “The State has also been implementing measures to address food and water insecurity. Insecurity is mostly attached to issues of poverty and economic dispossession. In this method of framing, the insecurity, is articulated as being attached to womanhood or gender and not expounded to gendered economic roots and bases. The State has focused on sustainable and healthy food production and processing procedures, as well as food conservation techniques.”¹⁴⁰ In forwarding women’s economic empowerment, the state has this to say: “various livelihood and entrepreneurship programs are implemented by the State through agencies like DSWD, DOLE, DA, CDA, NAPC, and DTI to increase women’s income and build their confidence.”¹⁴¹ Mohanty raises her concerns around the discourse of “economically empowering” women as this creates an image of women who are atomized, self-interested and competitive and that this image does not go beyond the liberal legal subject.¹⁴² She also maintains that In the absence of the discourse of structures, not only is gendered poverty denied of its structural bases but poor women from the Philippines are also characterized as partly responsible for this. This kind of framing may possibly work against women in other circumstances. The combination of the concept of difference and protection, without highlighting structures that paved way for them, may inscribe the idea that women are different, weaker and need more protection from the state. Treating these differences as incidences tends to confirm women as a lesser ‘sex’ and erase the fact that women, despite structural sexism in many contexts, have shown great power and resilience. More, as Ratna Kpaur puts, “This approach tends to essentialise difference - that is to say - to take the existence of gender difference as the natural and inevitable. There is no interrogation of the basis of the difference, nor consideration of the impact of the differential treatment on women.”¹⁴³

Analysing the tendencies in areas of labor may reveal to which extent and for what purpose addressing women’s discrimination is for the government. There is a recognition of the presence of work that is not traditionally for women. The goal of the State is to increase the number of women in these areas of work and increase their capacities for it. Here, there is the assumption of the need for integration and acceptance of women as capable of producing such labor. Despite the presence of the concept of substantive equality in CEDAW, where disadvantage, as Ratna Kapur says, is the focus, the framing that highlights the need for women to be integrated in ‘men’s jobs’ and developing the capacities to do so, fortifies the idea that to be equal with men in the economic sphere, they need to be able to do what men can. Kapur warned against this and says that “women will only qualify for equality to the extent that they can conform to these male values and standards.”¹⁴⁴

Also, while the State talks about increasing the number of women in certain types of work and building their capacity to do such work, it fails to confront the hierarchy present in assigning

¹³⁹ Ibid.

¹⁴⁰ Ibid.

¹⁴¹ Ibid.

¹⁴² Ibid.

¹⁴³ Ibid.

¹⁴⁴ Ibid.

values to certain types of work where those that concern social reproductive work which are less paid are often given to women. Unpaid or less-paid social reproductive work is not highlighted as something that needs to be addressed. In fact, there is a program implemented by the State to encourage men to engage in unpaid work. The division of the public and private is apparent and unpaid work is normalized where the State is being excused to significantly share in the burden of unpaid reproductive and social reproductive work. The usually unpaid or lowly paid sector is called by the State as informal economy. The State's solution to issues presented by informal economy where many women are engaged in is the integration of the informal economy to the formal economy: "The State continues to intensify its efforts to facilitate the transition of informal workers to formal economy through the roll-out of the International Labour Organization (ILO) Recommendation 204 in selected regions."¹⁴⁵ The State justifies pay gap by stating that there is no policy to pay women less than men receive and that the minimum wage is set not according to gender but according to industrial vs. non-industrial criterion. This shows the disparity of treatment between industrial and non-industrial labor. Unfortunately, many women are engaged in non-industrial labor. The State does not go to the extent of articulating the sexual division of labor in the nation and the global division of labor and the Philippines location in that economy. It is not also very apparent that the State desires to completely address the sexual division of labor in the family, thus, while it speaks about women's economic empowerment it never mentions the reality in many cases, women's multiple burden becomes rampant. Moreover, the CEDAW recommendations on equal pay is anchored in equal work.¹⁴⁶ As mentioned, this erases the issue of hierarchization of work where jobs mostly associated with women, such as care and social reproductive work are relegated to unpaid or less paid work. Mohanty states that the path to equality necessitates decolonization that entails the demystification of capitalism and challenging the international division of labor that goes with it.¹⁴⁷

The issue of migrant workers is highlighted as one that is besieged by oppressive practices of illegal recruiters: "It also provides assistance against anti-illegal recruitment or TIP. A considerable number of private recruitment agencies' licenses have been cancelled due to these violations, and a number of illegal recruiters have been convicted."¹⁴⁸ By focusing on procedural and administrative aspects of the problem, the State fails into account the root cause of migration which is the lack of opportunities in the country. Issues that occur in receiving countries are seen as problems that can be addressed through dialogues. In *Human Rights and Root Cause*, Susan marks looks more closely at the merits of seeing human rights with the perspective of addressing root causes and mentions that focus on improving procedures gives the message that if only the bad procedures are addressed, the miseries associated with human rights violations would be

¹⁴⁵ Ibid.

¹⁴⁶ Committee on the Elimination of Discrimination against Women, *Concluding observations on the ninth periodic report of the Philippines**, 2023, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/SessionDetails1.aspx?SessionID=2670&Lang=en&fbclid=IwZXh0bgNhZW0CMTEAAAR3A0qyqFokRATgcnzsNRF9uaSWOqP2-7dcb_VG8el5IuHgMdTKCoT6ldZQ_aem_AbZgRtsaoYxQu624Ri2WT60GIdq7Wjyb9Xxslw43L66j0kwnPrL2u-wq-DiT9SI51E1N9yRBS0vH_f2zQmETUYOAw.

¹⁴⁷ Ibid.

¹⁴⁸ Ibid.

eliminated.¹⁴⁹ The specific issue of feminized labor migration and its local and regional and international dimensions are not tackled. There is a framing that presents women as being exploited for cheap and docile labor but this is presented as only exacerbating their multiple oppressions.¹⁵⁰ There is here an atomization of issues that precludes the analysis that gendered discrimination is deeply intertwined with gendered economic oppression. The same goes for the presentation of women working abroad as migrants. The organizations blame the lack of available work locally for this condition and forwards the thesis that structures are to blame for this but did not go as far as detailing what these systems and structures are. In terms of the CEDAW recommendations, migration and trafficking are tied to national bases and roots of migration and trafficking.¹⁵¹ However, these bases and roots are framed in a general manner. While the recommendations tackle the need for bilateral relations they don't go as far that the bases and roots are not only locally-found, whether in the context of the place of origin or receiving place but a whole system that sanctions the import and export of feminized labor. This asks whether CEDAW is capable of providing a platform for issues that involve not only states in their individuality but in their global relationships. The issue of the migrant worker is seen by Neferti Tadiar as a phenomenon that shows the place of the Philippines in the global economy.¹⁵² However, evidently, by focusing on cases of illegal recruitments and dialogues with host countries, the State buries the issue's local and global bases, This bases, Tadiar was able to succinctly describe: "While neoliberalism in advanced capitalist economies might seek to liberate individual entrepreneurial freedoms (for the post-Fordist worker by making "life" directly value productive), the provision of the "temporal surplus value" required for the exercise of such productive freedoms depends on the fostering and maintenance of transnational familial and para-kinship networks as the means by which migrant workers subsidize the devalued conditions of their own social reproduction at home (their own cheapened "life-times")."¹⁵³

Stereotypes and harmful practices are framed by the State as products of culture and norms. Hence, the solution envisioned by the State revolves mainly on awareness-raising activities and education. The State uses terms such as gender-sensitive and gender-fair. In the framing, the State institutions are the vessels where gender-sensitivity and fairness may be transmitted from and the recipients of trainings are the ones that practice norms and cultures that are harmful. There is no showing that the State is also engaged in understanding the bases of stereotypes and harmful practices and readily points to culture and norms as the source of the occurrences of the practices. For instance, the shared responsibility in the home is accordingly taught to families but none of the reports shows that the State sought to understand the other factors that give rise to the continued

¹⁴⁹ Marks, *Human rights and root causes*, *Modern La Review*, 74(1), 57–78 (2011), <https://search.informit.org/doi/10.3316/agispt.20111490>.

¹⁵⁰ Center for Reproductive Rights, et al., *Joint Submission to the Committee on the Elimination of Discrimination Against Women*, 2023, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/SessionDetails1.aspx?SessionID=2670&Lang=en&fbclid=IwZXh0bgNhZW0CMTAAR3A0qqFokRATgcnzsNRF9uaSWOqP2-7dcb_VG8el5IuHgMdTKCoT6ldZQ_aem_AbZgRtsaoYxQu624Ri2WT60GIdq7Wjyb9Xxslw43L66j0kwnPrL2u_wq-DiT9SI51E1N9yRBS0vH_f2zQmETUYOAw.

¹⁵¹ *ibid.*

¹⁵² *Ibid.*

¹⁵³ *Ibid.*

practices and beliefs. The kind of framing that has a ready-made assumption about stereotypes and practices may foreclose a closer scrutiny of the economic factors that fortify these practices. The *Pantawid Pamilya* Program is a form of conditional cash transfer given to low-income families. As stated by the State, gender-sensitivity and responsive trainings are integrated in this economic measure. The target of most of these trainings are low-income families. In this kind of articulation the stereotype that people from lower social classes are usually the ones in need of trainings is further strengthened. Also, here men are framed as partners in gender development. However, there is no showing that the State is interested in understanding how men are also feminized by economic organizations that treat them as expandable labor and how their gendered roles in the families and societies justify these kinds of structures. As Kapur says: “This history cannot be understood simply in terms of the history of gender subordination or sexual violence perpetrated by men against women. It was also about the broader economic and political subordination and expropriation of another nation's labour, resources, land, raw materials and market, and the exclusion of the native - both men and women - from sovereignty and legal entitlements.”¹⁵⁴

Gender-based discrimination in economic rights in CEDAW is potentially capable of surrendering to neoliberal capture for as long as the instrument does not explicitly claim and present a framework of addressing discrimination beyond existing systems such as neoliberalism and frameworks such as development. After all, it is easy for parties to make it appear that women are able to equally enjoy with men the rights existing in the system while economic conditions of marginalized women, on the ground, remain desperate. This may even serve as legitimating certain harmful neoliberal projects.

In this regard, CEDAW's concept of substantive equality once provided hope. However, this concept needs to be operationalized, rearticulated and repositioned in a way that it targets structures and systems that work against the attainment of substantive equality.

¹⁵⁴ *ibid.*

Chapter 5: Conclusion

Expanding the Conceptualization of Gendered Oppression in the Economy by Articulating It Beyond Rights and Identity Discourses

CEDAW, the submission of the State and civil society focus on the category “women”, equating this category to a restrictive identity that is attached with the sex of a person. Not only is this kind of essentialism detrimental to the inclusion of all women in all their diversities. It also forecloses analyses that point to gendered discrimination in economic rights as traveling through pathways that are not only limited to women’s bodies but extend to people that do not neatly fit the category, including men. Treating women as a homogenous unit establishes a universalizing discourse that may work towards invisibilizing people who suffer gendered discrimination in economic rights and invisibilizing the differences of women vis-a-vis their socioeconomic locations. Thereby, establishing a universalizing an image of a woman as an economic subject that does not aptly reflect their true socioeconomic locations. As, Resenblum reiterates, this is problematic, since, the experience of women varies along class lines and that “reproductive policy, daycare, public education, and healthcare each shift the nature of the identity of “women.”¹⁵⁵

Reconstruct the Meaning of Vulnerability, Marginalization and Intersection to Reflect Power, Movement and Assemblage

CEDAW, the submission of the State and civil society predominantly deploys the concepts vulnerability, marginalization an intersection without using the lens of power and treats these concepts as attached to the category “women” on the virtue only of their identity as women. This kind of framing forecloses the conceptualization of gendered discrimination in economic rights that treats discrimination as an occurrence that is organized around assemblage and movement, whereby, forms of oppressions or denial of rights are co-consitutive of each other. In the analysis using assemblage and movement, gendered discrimination in the economy cannot be too narrowly attached with culture and behavior but must be conceptualized as assemblage that, according to Puar, is “a series of dispersed but mutually implicated and messy networks, draws together enunciation and dissolution, causality and effect, organic and nonorganic forces.”¹⁵⁶

Articulating Equality in Economic Rights as Being Associated with Systems, Structures and Orders that Foreclose Women’s Actual Enjoyment of Economic Rights

CEDAW, the submission of the State and civil society is lacking in the articulation of gendered discrimination in economic rights that surface its relationship to systems, structures and orders. Usually, gendered economic discrimination is presented as a given phenomenon that is attached to the category “women.” Such discrimination then, is being given an appearance that is ahistorical and not context-specific. Under such framing, discrimination in the economic realm can still be utilized to legitimize and normalize concepts of development under economic structures such as

¹⁵⁵ Ibid.

¹⁵⁶ *ibid.*

neoliberalism that have been detrimental, not only to women, but the rest of the population. This limitation may ultimately work against women and the people since, as Kalpana Wilson elucidated, neoliberalism and neoliberal discourse have found their ways through gender discourse by appropriating and incorporating critical concepts that reinforce or are sustained by unequal gender relations.

In this context, it is important to Nancy Fraser's elucidation of creating a theory of social justice that integrates the politics of recognition and redistribution, a framework that can "accommodate the complex relations between interest and identity, economy and culture, class and status in contemporary globalizing capitalist society."¹⁵⁷

¹⁵⁷ Ibid.

Bibliography

Alvarez, Jose and Bauder, Judith, *Women's Property Rights Under CEDAW, 3 Critiques of the CEDAW Regime, International Law, and International Human Rights*, (Oxford University Press, 2024).

Bouchard, Johanne and Meyer-Bisch, Patrice, "Intersectionality and Interdependence of Human Rights: Same or Different?," in *The Equal Rights Review, Vol. Sixteen* (2016), <https://www.equalrightstrust.org/ertdocumentbank/>

Intersectionality%20and%20Interdependence%20of%20Human%20Rights%20Same%20or%20Different.pdf.

Charlesworth, Hilary and Christine Chinkin. "Between the Margins and the Mainstream: The Case of Women's Rights." in *The Limits of Human Rights*, edited by Bardo Fassbender and Knut Traisbach, 205-221, (New York: Oxford University Press, 2019).

Center for Reproductive Rights, et al., Joint Submission to the Committee on the Elimination of Discrimination Against Women, 2023, https://tbinternet.ohchr.org/_layouts/15/

[treatybodyexternal/SessionDetails1.aspx?SessionID=2670&Lang=en&fbclid=IwZXh0bgNhZW0CMTAAAR3A0qyqFokRATgcnzsnRF9uaSWOqP2-7dcb_VG8el5IuHgMdTKCoT6ldZQ_aem_AbZgRtsaoYxQu624Ri2WT60GIq7Wjyb9Xxlsw43L66j0kwnPrL2uwq-DiT9SI51E1N9yRBS0vH_f2zQmETUYOAw](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/SessionDetails1.aspx?SessionID=2670&Lang=en&fbclid=IwZXh0bgNhZW0CMTAAAR3A0qyqFokRATgcnzsnRF9uaSWOqP2-7dcb_VG8el5IuHgMdTKCoT6ldZQ_aem_AbZgRtsaoYxQu624Ri2WT60GIq7Wjyb9Xxlsw43L66j0kwnPrL2uwq-DiT9SI51E1N9yRBS0vH_f2zQmETUYOAw).

Committee on the Elimination of Discrimination against Women, *Concluding observations on the ninth periodic report of the Philippines**, 2023, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/SessionDetails1.aspx?SessionID=2670&Lang=en&fbclid=IwZXh0bgNhZW0CMTAAAR3A0qyqFokRATgcnzsnRF9uaSWOqP2-7dcb_VG8el5IuHgMdTKCoT6ldZQ_aem_AbZgRtsaoYxQu624Ri2WT60GIq7Wjyb9Xxlsw43L66j0kwnPrL2uwq-DiT9SI51E1N9yRBS0vH_f2zQmETUYOAw.

Committee on the Elimination of Discrimination against Women, *Ninth Periodic Report submitted by the Philippines under article 18 of the Convention, due in 2020**, * (2 July 2021),

https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/SessionDetails1.aspx?SessionID=2670&Lang=en&fbclid=IwZXh0bgNhZW0CMTAAAR3shHx4kvrpuWCkaL5tkFLiDaXRTNpx4frn4M_SthvnMw0iblMpmnxKXac_aem_AaBwy93gax9JPWsf3idL-w0QzlFXxjnSBXJuJBfq0fxPbnpoEEI1fbZnOAx6GYlhVEEYR7z4aDfEsakStJLMdby.

Fairclough, Norman, *Critical Discourse Analysis : the Critical Study of Language* (New York, 1995).

Foucault, Michel, "The Subject and Power", In: *Critical Inquiry, Vol. 8, No. 4, pp. 777-795* (The University of Chicago Press, Chicago: 1982)..

Fraser, Nancy, "Recognition without Ethics?" in *Theory, Culture & Society*, 18(2-3), 21-42 (2011), <https://doi.org/10.1177/02632760122051760>.

Fraser, Nancy, *Cannibal capitalism: how our system is devouring democracy, care, and the planet—and what we can do about it* (Verso, London, 2022), 208 pp., ISBN: 9781804292587.

Fraser, Nancy, *Social justice in the age of identity politics: Redistribution, recognition, participation*, Discussion Papers, Research Unit: Organization and Employment FS I 98-108, WZB Berlin Social Science Center (1998).

Jørgensen, Marianne, & Phillips Louise, *Discourse Analysis as Theory and Method*, (SAGE, 2002).

Kapur, Ratna, "The Citizen and the Migrant: Postcolonial Anxieties, Law, and the Politics of Exclusion/Inclusion (May 2007)". In *Theoretical Inquiries in Law*, 8:2 pp. 537-570 (2007), Available at SSRN: <https://ssrn.com/abstract=2281076>.

Marks, *Human rights and root causes*, *Modern La Review*, 74(1), 57–78 (2011), <https://search.informit.org/doi/10.3316/agispt.20111490>.

Matthew, Clarke, "Talkin' 'Bout a Revolution: The Social, Political and Fantasmatic Logics of Education Policy." *The Journal of Education Policy*, 2012. doi:10.1080/02680939.2011.623244.

Mohanty, Chandra, "*Under western eyes*" revisited: *feminist solidarity through anticapitalist struggles*, 28(2), *Signs: Journal of Women in Culture and Society* 499 (' (2003).

Montoya and Agustin, *The Othering of Domestic Violence: The EU and Cultural Framings of Violence against Women*. *Social Politics*, 20(4), 534-557 (2013), <https://doi.org/10.1093/sp/jxt020>.

National Rural Women Coalition and National Land Coalition, *Shadow Report on the Situation of Rural Women in the Philippines*, [https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/SessionDetails1.aspx?](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/SessionDetails1.aspx?SessionID=2670&Lang=en&fbclid=IwZXh0bgNhZW0CMTEAAAR3shHx4kvrpuWCkaL5tkFLiDaXRTNpx4frn4M_SthvnMw0ibIMpmnxKXac_aem_AaBwy93gax9JPWsf3idL-w0QzIFXxjnSBXJuJBfq0fxPbnpoEEI1fbZnOAx6GYlhVEEYR7z4aDfEsakStJLMdby)

[SessionID=2670&Lang=en&fbclid=IwZXh0bgNhZW0CMTEAAAR3shHx4kvrpuWCkaL5tkFLiDaXRTNpx4frn4M_SthvnMw0ibIMpmnxKXac_aem_AaBwy93gax9JPWsf3idL-w0QzIFXxjnSBXJuJBfq0fxPbnpoEEI1fbZnOAx6GYlhVEEYR7z4aDfEsakStJLMdby](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/SessionDetails1.aspx?SessionID=2670&Lang=en&fbclid=IwZXh0bgNhZW0CMTEAAAR3shHx4kvrpuWCkaL5tkFLiDaXRTNpx4frn4M_SthvnMw0ibIMpmnxKXac_aem_AaBwy93gax9JPWsf3idL-w0QzIFXxjnSBXJuJBfq0fxPbnpoEEI1fbZnOAx6GYlhVEEYR7z4aDfEsakStJLMdby)

Nickel, James, *Rethinking Indivisibility: Towards a Theory of Supporting Relations between Human Rights*, University of Miami Law School University of Miami School of Law Institutional Repository, 2008.

Office of the United Nations High Commissioner for Human Rights, *Frequently Asked Questions on Economic, Social and Cultural Rights*, Fact Sheet No. 33, <https://>

www.ohchr.org/sites/default/files/Documents/Issues/ESCR/FAQ_on_ESCR-en.pdf.

Puar, Jasbir, *Terrorist Assemblages: Homonationalism in Queer Times* (Duke University Press, 2007), <https://doi.org/10.2307/j.ctv1131fg5>.

Raday, Frances, “Gender and democratic citizenship: the impact of CEDAW,” in *International Journal of Constitutional Law*, Volume 10, Issue 2, 30 (March 2012), Pages 512–530, <https://doi.org/10.1093/icon/mor068>.

Rosenblum, Darren, *Unsex CEDAW, or What's Wrong With Women's Rights*, 20 *Columbia J. Gender & L.* 98 (2011), <http://digitalcommons.pace.edu/lawfaculty/810/>.

Society of Trans Women of the Philippines, *Transpinays in the Margins, CEDAW Shadow Report Submission and EnGenderRights, Inc., Report for the 86th Session Review on the Philippines*, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/SessionDetails1.aspx?SessionID=2670&Lang=en&fbclid=IwZXh0bgNhZW0CMTAAR3shHx4kvrpuWCkaL5tkFLiDaXRTNpx4frn4M_SthvnMw0iblMpmnxKXac_aem_AaBwy93gax9JPWsf3idL-w0QzIFXxjnSBXJuJBfq0fxPbnpoEEI1fbZnOAx6GYlhVEEYR7z4aDfEsakStJLMdby.

Suttle, Oisin, “Law as Deliberative Discourse The Politics of International Legal Argument—Social Theory with Historical Illustrations” in *Journal of International Law and International Relations* (2016), Vol. 12. pp. 151-203.

Tadiar, Neferti. *Remaindered Life* (New York, USA: Duke University Press, 2022), <https://doi.org/10.1515/9781478022381>.

UN General Assembly, “Convention on the Elimination of All Forms of Discrimination Against Women,” *United Nations, Treaty Series*, vol. 1249, p. 13 (1979), Preamble, Paragraph 3 & 4.

UN General Assembly, “Convention on the Elimination of All Forms of Discrimination Against Women,” *United Nations, Treaty Series*, vol. 1249, p. 13 (1979), Article 1.

UN General Assembly, “Convention on the Elimination of All Forms of Discrimination Against Women,” *United Nations, Treaty Series*, vol. 1249, p. 13 (1979), General Recommendation Number 25.

Wilson, Kalpana, *Towards a radical re-appropriation: gender, development and neoliberal feminism*. *Development and Change*, 46 (4). pp. 803-832 (2015), ISSN 0012-155X.

Women’s Legal Bureau, *Voices, Choices, Participation: Weaving the Girl Child’s Experience Philippine CEDAW Shadow Report 2023*, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/SessionDetails1.aspx

SessionID=2670&Lang=en&fbclid=IwZXh0bgNhZW0CMTEAAAR3shHx4kvrpuWCkaL5tkFLiDaXRTNpx4frn4M_SthvnMw0iblMpmnxKXac_aem_AaBwy93gax9JPWsf3idL-w0QzIFXxjnSBXJuJBfq0fxPbnpoEEI1fbZnOAx6GYlhVEEYR7z4aDfEsakStJLMdby.