

CAN TRANSDISCIPLINARITY OFFER A FAIR ADDITION IN THE MODERN PROTECTION OF WOMEN'S RIGHTS?

TRANSDISCIPLINARIDADE PODE OFERECER UMA CONTRIBUIÇÃO JUSTA NA PROTEÇÃO MODERNA DOS DIREITOS DAS MULHERES?

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Abstract: Day by day, human rights are more transdisciplinary, and this has gone beyond the boundaries of individual sheets of paper and has turned into the cooperation of specialists from a variety of disciplines such as political science, law, sociology, philosophy, history, anthropology and psychology, unlimited, so that this method has allowed researchers to look at law in general and especially women's rights from a variety of perspectives corresponding to the above-mentioned disciplines: legal, historical, political, economic, social and cultural. Beyond some reasons that still maintain a certain distance between law and transdisciplinarity, we will see that for decades there have been increasingly appropriate results for women's rights. The trivalent logic, the levels of knowledge and the consideration of what is between disciplines and beyond them, can materialize in particularly useful scientific results for international law.

Keywords: Women's Rights. Transdisciplinarity. International Law. Fairness.

Resumo: Dia após dia, os direitos humanos estão se tornando mais transdisciplinares, e isso tem ultrapassado os limites de folhas individuais de papel e se transformou na cooperação de especialistas de uma variedade de disciplinas, como ciência política, direito, sociologia, filosofia, história, antropologia e psicologia, ilimitadamente, de modo que esse método permitiu aos pesquisadores analisar o direito de maneira geral e especialmente os direitos das mulheres a partir de uma variedade de perspectivas correspondentes às disciplinas mencionadas acima: jurídica, histórica, política, econômica, social e cultural. Além de algumas razões que ainda mantêm uma certa distância entre o direito e a transdisciplinidade, veremos que, ao longo das décadas, têm surgido resultados cada vez mais adequados para os direitos das mulheres. A lógica trivalente, os níveis de conhecimento e a consideração do que está entre as disciplinas e além delas podem se materializar em resultados científicos particularmente úteis para o direito internacional.

Palavras-chave: Direitos das Mulheres. Transdisciplinaridade. Direito Internacional. Justiça.

1. Introduction¹

The current level of internationalisation of all components of society has begun to reveal the need for reforms and even a way of reorganising law, especially international law, which is considered too inter-state to cope with the regulatory needs of all actors in these legal relationships². Women's rights are directly or interdependently related, without exception, to every characteristic of society, because the life and evolution of norms, as in the case of many other social processes, are complex combinations of normative, instrumental and other constraints and causes of action. From isolated to universal, international law can mark feminism and its global manifestation more and more visibly, which can lead to a universal, universally accepted protection. Transdisciplinarity and feminism, although apparently, they are two distinct theoretical approaches in terms of research and the analysis of international law, they inevitably intersect with regard to complex issues that require a comprehensive perspective. They can be united by both a constructivist and a constructionist vision. In this context, there is a need for collaboration between experts from different fields, such as law, political science, anthropology, psychology, economics, history and other relevant fields. Thus, transdisciplinarity can be a useful tool for the comprehensive analysis of gender issues within international law, especially at the institutional level. Broadly, feminism is a theoretical and political perspective that focuses on how gender inequalities are rooted in social structures and power relations and how these affect women and other marginalised groups.

2. Theoretical framework and literature review

These elements are covered in the chapter on results and discussion for a well-founded analytical analysis. Key concepts and definitions include: 1) transdisciplinarity (or TD

¹ This article represents the international paper delivered in English at the ESIL (European Society of International Law) Feminism in International Law Interest Group, "Diversity as Fairness: Narratives, Relationships, and the Path Forward", 2023 ESIL Annual Conference on "Is International Law Fair?", IG Workshops at 2023 ESIL Annual Conference- In the context of the 18th ESIL Annual Conference in Aix-en-Provence, 30.08.2023. The paper was accepted following a selection/invitation by a scientific committee and was actually delivered, not as a poster. The conference programme is here: https://esil-sedi.eu/wp-content/uploads/2023/05/IG-Feminism_workshop-programme_ESIL-2023.pdf, or here: <https://esil-sedi.eu/programmes-ig-workshops-at-2023-esil-annual-conference-in-aix-en-provence/>.

² For some considerations of the dynamics of international law, see Vytis Valatka, Vaida Asakavičiūtė, *The philosophy of international law of Modern Scholasticism: the theory of just war*, Tribuna Juridică/Juridical Tribune, Volume 12, Issue 3, October 2022, 317-328.

interchangeably referred to as "interdisciplinary synergy" or "cross-disciplinary integration") as the most inspiring method that transcends the boundaries of individual disciplines; 2) women's rights as fundamental and equal rights guaranteed to women in various social, political and economic aspects; and 3) justice as a moral and ethical principle of fair and equal treatment for all individuals, including women's rights.

The theoretical framework or perspective is based on the use and effectiveness of transdisciplinarity, which is a proof that these categories of rights (and only them) can benefit from a multitude of multiple perspectives, and folds in the complexity of the human personality, of humanity in general. The relevant literature comes and anchors the above in the modern context. Works that explore the referential impacts and gaps or inconsistencies in this literature are examined.

As a summary of the research findings, we see how studies show that considering new research methods makes a significant contribution to the protection of women's rights and feminism is seen through this clearer lens. Relevant research highlights both benefits and potential limitations as there are gaps in the existing literature regarding the concrete application of TD, reasons.

3. Research design and methods

The arguments and conclusions of this paper aim to emphasize the importance of understanding reality, going through the meta-analysis corresponding to the universality of public international law, filtered through the ethos of the researcher. For the elaboration of this monograph, the method of specific scientific introspection correlated with the transdisciplinary type of method based on primary and secondary data from scientific journals, books, documents, and other publications was used.

4. Results and Discussion

Not infrequently, international human rights law has adopted the concept of transdisciplinarity in order to understand the plurality of the international system and the ways in which different forms of discrimination can be eradicated. An example may be the concepts of intersectionality³, critical race theory and postcolonial theory to better understand the ways in

³ See Crenshaw, Kimberlé, *Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics*, University of Chicago Legal Forum. 140, 1989, pp. 139-167. According to him, "intersectionality is the study of overlapping or intersecting social identities

which different forms of discrimination intersect and can be developed through the lens of international law. The emergence of these theories would not have been possible without putting not a single discipline but an unlimited group of disciplines under the research spotlight. Human rights are becoming more and more transdisciplinary, especially through the cooperation of specialists from a variety of fields such as political science, law, sociology, philosophy, history, anthropology and psychology, a method which has enabled researchers to look at human rights from a variety of perspectives corresponding to the above-mentioned disciplines: legal, historical, political, economic, social and cultural. In this multi-purpose laboratory, if lawyers have focused on the development of international human rights law, then political scientists have examined the role of states in protecting these categories of rights, and sociologists have explored the impact of human rights on social structures⁴. In this way, scholars from different disciplines have drawn on each other's experience to better understand the range of difficulties associated with these rights and freedoms⁵.

It has been proven that *TD* can be an effective way to support women's rights, as it promotes positive change in society, has a chilling effect on conflict, and improves women's rights and gender equality. Even from the perspective of access to reproductive health services, we can see how collaboration between doctors, social workers, psychologists and other specialists appears useful. When we call into question health issues, we are looking primarily at education about family planning, counselling and support to overcome barriers related to social or financial stigma. And we have the example of tackling gender-based violence, where transdisciplinarity can be seen in collaboration between police, lawyers, psychologists, social workers and other professions working together to identify and provide support to victims⁶.

and their systems of oppression, domination or discrimination respectively. The theory suggests and analyzes how different biological, social, and cultural categories such as gender, ethnicity, race, class, (dis)ability, sexual orientation, religion, caste, age, nationality, and other axes of identity interact on multiple and often simultaneous levels. The theory proposes that we should think of each element or trait of a person as inextricably linked to all other elements for a full understanding of one's identity."

⁴ Benjamin Authers, *Human rights, interdisciplinarity and the time of utopia*, in Australian Journal of Human Rights, Volume 22, 2016 - Issue 2, pp. 1-15; Floya Anthias, *Thinking Through the Lens of Translocational Positionality: An Intersectionality Frame for Understanding Identity and Belonging*, Translocations: Migration and Social Change, 2008.

⁵ Patricia Hynes, Michele Lamb, Damien Short & Matthew Waites, *Sociology and human rights: confrontations, evasions and new engagements*, The International Journal of Human Rights, 14:6, 2010, pp. 811-832, DOI: 10.1080/13642987.2010.512125. See generally, David P. Forsythe, *Human Rights in International Relations*, ed. Cambridge: Cambridge University Press, 2012 and Kretzmer, D., *The Occupation of Justice: The Supreme Court of Israel and the Occupied Territories*. Albany, ed. NY: SUNY Press, 2012.

⁶ See also Marks, Stephen P., *Emerging human rights: a new generation for the 1980s*, Rutgers L. Rev. 33 (1980): 435.

In this process, the role of the private sector and non-governmental organisations can be useful in combating this problem, as promoting gender equality in education and the workplace is about educators, company managers, trade unions and other organisations working together through training and education programmes to improve awareness and sensitivity to specific issues. The very promotion of women's participation in decision-making is geared towards cross-disciplinary analysis through collaboration between political leaders, activists, even business people and other actors to achieve women's participation in political, economic and social decision-making. From this perspective, mentoring and leadership development programmes are used to increase women's access to positions of power and influence. If we have touched on the subject of education, we must note that there are studies that show that, even at this moment, there are a number of difficulties precisely in education and research through the survival of male stereotypes, including for the very young generation, and these lead us to the conclusion that changes should start from this starting point⁷. Reviewing the literature, we find that it has been more than 23 years since these issues have been openly discussed and a trend of repositioning women and gender studies in the sciences. "What we can do is to create, not a counter-programme, but a structure for collective research, interdisciplinary and international, bringing together social scientists, activists, representatives of activists, etc., with the social scientists being placed in a quite definite role: they can participate in a particularly effective way, because it's their job, in working parties and seminars, in association with people who are in the movement."⁸.

It is clear that fundamental human rights and transdisciplinarity inherently intersect conceptually and methodologically at every turn, especially when confrontations relate to women's rights in modern society. Against this backdrop, TD methods only continue to be applied, as this already began decades ago and significant results have been achieved.

How can we improve this research? First and foremost through legal practice and thinking, which must be a good ground through diversified education. Today this is a reality: lawyers need to be open to learning and exploring concepts from other fields. Legal problems have long outgrown the stage where they were thought to be solved by law alone, in isolation. Ethical and social justice issues can be raised by analysing the impact on vulnerable groups and

⁷ See Rachel Tillman, Priscill Anctil Avoine, *Rethinking Gender and Inter/Transdisciplinarity in Research and Sciences*, in Una Mirada Desde Las Ciencias Humanas, Perspectives on gender: a look from the human sciences, Chapter - May 2017, p. 55.

⁸ Dölling, Irene, and Sabine Hark, *She Who Speaks Shadow Speaks Truth: Transdisciplinarity in Women's and Gender Studies Signs*, vol. 25, no. 4, 2000, pp. 1195-98. JSTOR, <http://www.jstor.org/stable/3175511>. Accessed 7 July 2023. See also Pierre Bourdieu, *Acts of Resistance. Against the New Myths of our Time*, translated by Richard Nice, Ed. Polity Press, 1998, and some specifics in P. Bourdieu, *Practical Reason-On the Theory of Action*, p. 56, Stanford, CA: Stanford University Press, 1998.

ensuring that legal solutions are fair and inclusive. By prioritising critical information, legal theorists and practitioners can identify key information from related fields that is relevant to achieving faster and clearer regulation. Today's practitioners can look for innovative ways to combine legal knowledge with technology, design or other creative approaches⁹. They need to be able to communicate legal-specific complexity in a way that is accessible to those outside the legal field, which may involve translating legal concepts into language that is understandable to the general public or experts in other fields. We are in fact witnessing the emergence of a new cross-disciplinary language that all specialists will need to learn, not just those in the legal field.

In the end, the key is to strike a balance between the need for quick and clear regulations and the benefits of a cross-disciplinary approach. Every legislator has at one time or another been faced with similar decisions and has had to quickly choose one of the paths because the third truth value in the trivalent logic, as we shall see in the next chapter, does not always allow quick decisions to be taken but requires the application of the steps I will describe below, but which may nevertheless lead to a better result. Open communication, collaboration and proper planning can help to combine these objectives to achieve effective and quality legal results. There is no single "best fit" transdisciplinary method in law, as the potential of transdisciplinary methods depends on the nature of the legal problem and the objectives of legal research or practice. Methodologically, the following have stood out in international law: integrating social research into legal analysis, integrating ethical and philosophical concepts, using methods such as participatory research, network analysis, scenario modelling or cost-benefit analysis, comparative analysis of international case law to identify best practices and solutions, and in particular integrating technologies such as data analytics, artificial intelligence and blockchain through which innovation can be brought to the way laws are interpreted, applied and enforced. A special place is now given to the use of tools and technologies that can speed up the research process, such as data analysis software, reference management software or online collaboration platforms. In the use of TD methods, a popular saying applies: "hurry up slowly!", meaning that speed must not lead to compromising quality.

As we have said, transdisciplinarity has been used for the development of regulations specific to women's rights in the last decades in many other disciplines: psychology, philosophy in particular, art, sociology, but it has been used less often when it comes to law,

⁹ For the modern problems of digitisation, see Manole Decebal Bogdan, *The Law of the Digital Economy a Reality for Legal Relations in the Future - New International Investment Protection*, International Investment Law Journal Volume 3, Issue 2, July 2023, 146-155.

especially international law. The establishment of transdisciplinarity in legal practice and research has its stages, of which the main ones are the following: identification of problems which transcend the limits of a single discipline and which benefit from the perspective of other fields; the formation of a team as appropriate as possible (lawyers, psychologists, sociologists, economists, ethicists, anthropologists, etc.); and the development of a common approach to the problem of the legal profession.); defining objectives and methods or how such diverse knowledge will be integrated; communicating and collaborating constantly; analysing and synthesising data and information; developing arguments and solutions that are sought to be translated into policy, law, or practice; communicating clearly and accessibly the research results and solutions developed to the public, colleagues and other stakeholders; evaluating and adapting strategies; promoting change in mindset and organisational or community culture; and continuing training and development.

There may be situations in which some lawyers reject or are reluctant to entertain the idea of transdisciplinarity. The main reasons include: professional conservatism, lack of knowledge or confidence, lack of time or resources, difficulty of cross-disciplinary communication (especially different language which can lead to frustration), perceived lack of relevance (it may be thought that solutions from other disciplines are apparently not relevant to legal problems or that these solutions do not apply to the specific legal context), resistance to change, but all these barriers can still be avoided through open communication, education about the benefits of transdisciplinarity, success stories and gradual collaboration¹⁰.

Also we may encounter specialists who remain attached to professional traditionalism and who may consider that legal knowledge alone is sufficient to tackle problems of the same nature and that is all. They may be reluctant to bring in perspectives from other disciplines, feeling that they will be distracted from their normal responsibilities.

Another reason that has already been invoked in practice is the perceived risk of dilution of professionalism which manifests itself in concerns that the integration of knowledge from other disciplines could dilute the specificity of their profession and lead to loss of professional identity or, loss of disciplinary autonomy. By no means can the *TD* method approach be understood or used to write off certain branches of law, but its purpose is to actually highlight the strength and value of their regulatory function¹¹. Although, at first glance, the process of

¹⁰ See Florent Pasquier, *La question de la dimension ontologique en situation éducative. Proposition d'un cadre théorique intégratif pour une pédagogie implicite* : Apports de la méthodologie transdisciplinaire, de la psychologie transpersonnelle et de la technontologie. education. Université Lyon 2, 2021.

¹¹ Cristina Elena Popa Tache, *Elements of Transdisciplinary Dynamics in Public International Law*, Ed. ProUniversitaria, 2023, pp. 14-17.

influence of one discipline by others can be seen as a loss of disciplinary autonomy, this argument does not seem solid in the face of the benefits of using transdisciplinarity as a very powerful tool, and not as the suffering of a discipline marked by its inability to maintain its autonomy. On the contrary, new skills can be absorbed and new developments can be found, which is an opportunity, far from being a disease of the disciplines, as we shall discover as we go along. Only by taking a very general look can we reach relevant conclusions. Any disciplinary isolation has so far failed to demonstrate that it can lead to any progress. Maintaining such a conception is a chimera, a chronophagy that already consumes time that could be used to develop new possibilities. Some proposals have already been launched in the doctrine that legal education should focus on the interconnections between international law and other disciplines such as international relations, political science, economics, history, sociology and anthropology¹². These path-breaking developments in international law research are also propelled by the fact that amidst developments outside of specific sources and norms, a current of constructivism has emerged to evolve and disseminate international norms¹³. It complements harmoniously in our analysis with constructionism.

Characteristic of international law might also be the existence of political and geopolitical aspects, and bringing in external perspectives might be perceived as a threat to sovereignty or national interests, which may lead to a superficial rejection of transdisciplinarity. Unfamiliarity or mistrust of related disciplines, lack of familiarity with some areas, may underlie the avoidance of integrating such perspectives into research or practice. Also for international law, tradition and conservatism may stand in the way of transdisciplinarity, as international law often has an established academic and practice tradition that may be opposed to perspectives from outside the traditional field, which is opposed to the expansive dynamics of international law actors. There may also be academic or professional pressures, depending on the academic or professional environment, where international lawyers may feel pressure to focus on the traditional aspects of international law and not engage in transdisciplinary exploration.

¹² Basarab Nicolescu, *Methodology of Transdisciplinarity*, *World Futures*, 70:3-4, 2014, pp. 186-199, DOI: 10.1080/02604027.2014.934631. In this article, Professor Nicolescu notes that: "There is a real discontinuity between disciplinary boundaries: there is nothing, strictly nothing, between two disciplinary boundaries, if we insist on exploring this space between disciplines through old laws, norms, rules and practices. Radically new laws, norms, rules and practices are needed if we are to explore this space"; and: "We define disciplinary boundary as the totality of the results - past, present, and future - obtained by the laws, norms, rules, and practices of a given discipline."

¹³ Dennis R. Schmidt and Luca Trenta, *Changes in the law of self-defence? Drones, imminence, and international norm dynamics*, *Journal on the Use of Force and International Law*, 5:2, 2018, pp. 201-245, DOI: 10.1080/20531702.2018.1496706.

Let us bear in mind, however, that the establishment of transdisciplinarity in legal research requires time, effort and commitment, but, on the other hand, it certainly compensates for the great chances to find the most appropriate solutions and to get closer to innovation, so necessary in our times.

1. Women's rights between fair and unfair or how transdisciplinarity could improve criticism

This article discusses women's rights from a legal perspective in relation to the usefulness or scepticism of the transdisciplinary method, especially when TD is encountered for the first time. For these reasons the present paper dives more into the transdisciplinary study of women's rights through the lens of international law and not through the lens of transdisciplinary feminism research where we find an abundant and particularly useful literature composed of art studies, sociology etc¹⁴. About the latter acceptance, that of uselessness, we do not have much to say because the last 25 years of legal literature in this field, have proven that without the use of TD methodology would not have marked today's progress. Almost all battles have been won with the help of transdisciplinarity.

The question that may arise is what more could be done and we will discover the answers below. In order to assess certain differences, any specific analysis will take into account the right to life, liberty and security, equality before the law, freedom of expression and education¹⁵. The current major issues still remain: violence against women (including domestic violence, trafficking and sexual harassment), reproductive rights (access to sexual and reproductive health services, abortion and contraception), political and economic participation, indigenous women's rights, technology and women's rights (such as online harassment and protection of personal data), migrant and refugee rights (gender-based violence, discrimination and exploitation), or unequal access to economic and property rights, and a continuous and dynamic effort is needed for their proper international regulation. As an example, we will consider some of the atrocities that are still committed against women in the world today. Female infanticide is still practised despite more or less official government positions. The deliberate killing of newborn female babies or female infanticide is widespread in several countries, such as China, India and Pakistan. Perhaps these problems would find good solutions in transdisciplinarity where social, cultural, religious,

¹⁴ See for an overview Carol Taylor, Jasmine Ulmer, Christina Hughes (eds.), *Transdisciplinary Feminist Research Innovations in Theory, Method and Practice*, Ed. Routledge, 2020.

¹⁵ Prabhpreet Singh, *Right to Adequate Standard of Living: A Comparative Study in India*, Perspectives of Law and Public Administration Volume 10, Issue 3, December 2021, pp. 371-379.

psychological or legal aspects can create something new to eradicate these forms of cruelty unimaginable to modern man. It has been argued that the inferior status in which women are viewed in patriarchal societies creates a prejudice against women that has even led to the modern practice of sex-selective abortion used to regulate gender ratios (foeticide)¹⁶. The regulations contained in the penal codes of many states have been differentiated: from severe punishments to "overlooking" in certain situations such as the existence of obvious mental problems¹⁷.

But how can we apply the *TD* axioms in international law when women's rights are at stake? In the following I will try to make a connection between law and transdisciplinarity with women's rights as a reference point.

Professor Basarab Nicolescu arrived at the application of the following three axioms of transdisciplinarity methodology, which, if applied even to international law research, would lead to more concrete results: 1) the ontological axiom: there are, in Nature and in our knowledge of Nature, different levels of Object Reality and, correspondingly, different levels of Subject Reality; 2) the logical axiom: the transition from one level of Reality to another is ensured by the logic of the included third party; and 3) the epistemological axiom: the structure of the

¹⁶ Jones, Adam, *On Female Infanticide - Two Case Studies from India and China*, article published in 2008 in Globeserve, available here: <https://globeserve.org/on-female-infanticide-two-case-studies-from-india-and-china/>, accessed 01.08.2023. See also King, Michelle T., *Between Birth and Death: Female Infanticide in Nineteenth Century China* (Redwood City, CA, 2014; online edn, Stanford Scholarship Online, 18 Sept. 2014), <https://doi.org/10.11126/stanford/9780804785983.001.0001>, accessed 28 July 2023.

¹⁷ According to Michelle Oberman, *Mothers Who Kill: "Coming to Terms With Modern American Infanticide"*, 8 DePaul J. Health Care Law 3 (2004) online, Luxembourg specifically provides a more severe penalty for killing a child than for other homicides. *Provocation, Diminished Responsibility and Infanticide*, New South Wales Law Reform Commission Discussion Paper, August 31, 1993, at 129. The following have criminal codes that recognize infanticide as a specific, less culpable form of homicide: Austria, New York Univ., *The American Series Of Foreign Penal Codes, Penal Act Concerning Felonies and Gross and Petty Misdemeanors* 66 (Norbert D. West & Samuel I. Shuman, trans., 1966) [hereinafter *Austrian Penal Code*]; Colombia, New York Univ., *The American Series of Foreign Penal Codes, The Colombian Penal Code* 106 (Phanor Eder, trans., New York Univ., *The American Series of Foreign Penal Codes, The Penal Code of Finland* 71 (Matti Jousten, trans., 1987) [hereinafter *Finnish Penal Code*]; Greece, New York Univ., *The American Series of Foreign Penal Codes, The Greek Penal Code* 148 (Nicholas B. Lolis, trans., 1950) [hereinafter *Greek Penal Code*]; India, *The Law of Crimes* 855 (Ratanlal Ranchhoddas & Dhirailal Keshavlal Thakore, trans, 1966) [hereinafter *Indian Penal Code*]; Italy, New York Univ., *The American Series of Foreign Penal Codes, The Italian Penal Code* 193 (Edward M. Wise & Allen Maitlin, trans., 1978) [hereinafter *Italian Penal Code*]; Korea, New York Univ., *The American Series of Foreign Penal Codes, The Korean Criminal Code* 109 (Paul Ryu, trans., 1960) [hereinafter *Korean Penal Code*]; New Zealand, *New Zealand Criminal Act of 1961*, supra note 4, at 135; The Philippines, *The Revised Penal Code Annotated* 355 (Jose Nollado, ed., 1988) [hereinafter *Philippine Penal Code*]; Turkey, New York Univ., *The American Series of Foreign Penal Codes, The Turkish Criminal Code* 145 (Orhan Sepici & Mustafa Ovacik, trans., 1965) [hereinafter *Turkish Penal Code*]; New South Wales, Western Australia, and Tasmania, *Provocation, Diminished Responsibility and Infanticide*".

totality of the levels of Reality is a complex structure: each level is what it is because all levels exist at the same time¹⁸.

Some examples: Women's Reproductive Rights

In this application framework we will extract specific elements of trivalent logic related to the debate on women's reproductive rights in the case of abortion. In many societies, this topic has been and is highly controversial, with strong positions from advocates of women's right to choose and from advocates of the right to life of the embryo or foetus. Hence we have:

- a) True if the perspective of pro-choice advocates could be represented as true regarding women's right to decide about their own bodies and the decision to abort in situations involving physical and mental health or difficult personal circumstances.
- b) False if the perspective of advocates of the right to life of the embryo or foetus could be represented as false regarding the restrictiveness of some abortion laws, arguing that life must be protected from the moment of conception.
- c) Uncertain as there is also an area of uncertainty here marked by people's perspectives that there are certain circumstances in which it is difficult to decide clearly between a woman's right to choose and the embryo's or foetus's right to life, such as in cases of abnormal embryo development, in advanced stages of pregnancy, etc.

Acknowledging this degree of ambiguity and uncertainty in this debate encourages a more open and understanding approach to the varied views on women's reproductive rights, cooperation which can lead to appropriate solutions.

Cultural and religious values v. rights

Consider the situation where certain practices or rights of women are influenced by cultural and religious values. For this exercise we have chosen the theme of veiling in a religious context, which can vary in interpretation according to religious traditions and beliefs. Through step 1, which consists of observing the trivalent logic, we have:

- a) True if the perspective of supporters of veiling as an expression of religious freedom and cultural identity could be taken as true regarding the right of women to choose to wear the veil in accordance with their religious or cultural beliefs.

¹⁸ Nicolescu, B., *La transdisciplinarité manifeste*, Monaco: Rocher, 1996 (English translation: 2002, Manifesto of transdisciplinarity, New York: SUNY Press, translation from the French by K.-C. Voss). See also Piaget, J., *L'épistémologie des relations interdisciplinaires*. in *L'interdisciplinarité - Problèmes d'enseignement et de recherche*, eds. G. Berger, A. Briggs, and G. Michaud, Paris: Organisation for Economic Cooperation and Development, 1972, pp. 127-139.

- b) False if the perspective of critics of compulsory veiling in certain contexts could be represented as false, arguing that the practice can be a form of oppression and a restriction of women's rights to freely express their identity and beliefs.
- c) Uncertain as cultural and religious interpretation may vary according to traditions and contexts, hence the area of uncertainty formed by those who consider that there are situations where wearing the veil may be perceived differently, sometimes as a freely consented choice and sometimes as a cultural or religious pressure.

Applying the trivalent logic in this context recognises that cultural and religious approaches to women's rights can be influenced by different interpretations and traditions. If we start from this point, it could facilitate dialogue between different groups and lead to a deeper understanding of the diversity of perspectives and balanced solutions that respect both women's rights and cultural and religious values.

Controversial Public Discussions

We are considering an intense public debate on the implementation of gender quotas in business leadership positions, for example. Positions can vary considerably between those who support gender quotas to promote equal representation and those who believe that such quotas may not be the most effective or equitable. The trivalent logic presents the following issues at the outset from which lawyers can start any analysis, because they will always exist:

- a) True from the perspective of gender quota advocates which could be taken as true in terms of the need to counteract the under-representation of women in leadership positions and create a more gender equitable society.
- b) False from the perspective of critics of gender quotas, which could be represented as false, arguing that selection for leadership positions should be based on skills and merit, without imposing gender restrictions.
- c) Uncertain when, given the complexity of the subject, we find that here too, as in any legal debate, there is an area of uncertainty that might be formed by the perspectives of people who believe that there are situations where gender quotas might be beneficial for a period of time to balance existing discrepancies, but might not be a long-term solution for promoting gender equality.

Women's Rights in Conflict Situations

An important shift in the field of international peace and security is the shift from a state-based concept of security to one based on individuals and communities, based on a greater concern for the protection of individual rights and needs, and the prevention and management of

conflicts affecting people's lives. The concept of cooperative security encourages states to work together. There has been an increase in efforts to prevent conflict through preventive diplomacy and other non-violent means. Focus on women's rights during armed conflict or in times of forced migration¹⁹. In such situations, (also) women's rights can be affected in complex ways due to gender-based violence, social disintegration and instability. Applying the trivalent logic could be done in the following way:

- a) True, in which case the perspective of women's rights advocates in conflict situations could be taken as true in terms of the need to protect women, ensure access to health care and reproductive health services, and promote women's active participation in peace and reconstruction processes.
- b) False from the perspective of critics in terms of underestimating the specific impact on women in conflict situations, arguing that all people suffer during conflicts and that the focus should be on general humanitarian aid, without specifically distinguishing women's rights.
- c) Uncertain because of the complexity of conflict situations and the diversity of circumstances that create the zone of uncertainty. The third value could represent the perspectives of those who find it difficult to decide clearly between the immediate needs of women and the broader challenges of conflict management.

For example, if two interest groups are in conflict over certain women's rights, lawyers would have a better chance of finding the most appropriate avenues, as the logic of the included third party can be operative in finding solutions that take into account the interests and perspectives of both parties. It is interesting how the application of the logic of the included third party in international law overcomes the limitations of dualistic thinking. What are the steps to achieve this? First, taking into account the zero point, we identify the reasons, the problem or the conflict, then we move on to finding the interests and possibilities of the parties (important for experts, arbitrators or mediators). Then, through the logic of the included third party, we can discover and arrive at that sought compromise, based on a series of solutions and variables, which can be implemented in the end, and then continue monitoring the results.

The ontological axiom that there are, in nature and in our knowledge of nature, different levels of object reality and, correspondingly, different levels of subject reality can be applied in public international law by understanding that international society is made up of a

¹⁹ Last but not least, another mutation in the field of international peace and security is the recognition that men and women are equally affected by conflicts and security threats.

diversity of actors, with different interests, origins, perspectives and capacities, and that this diversity must be taken into account in the process of drafting and applying international law, by recognising the existence of several levels of object reality, such as: the physical level, the biological level, the social level, the cultural level, the economic level and the political level. Each level of reality can influence the way in which international problems, whether simple or complex, are perceived and dealt with, and can have a bearing on the way in which the rules and norms of international law are developed and applied. In terms of levels of subject reality, the use of this axiom can lead to the recognition that there are different levels of power and influence in what we call the "world order", and these levels will be taken into account in the process of developing and applying international law because powerful states and international organisations may have a greater influence on the development and practice of international law compared to smaller states or civil groups, for example²⁰. It follows that by putting this ontological axiom into practice, international law can become more flexible and adaptable to the diversity of existing interests and perspectives, which evolutionarily supports the development of a fairer and more effective system for resolving contemporary international challenges.

The logical axiom (moving from one level of Reality to another) can serve public international law by recognizing that there is a close connection between the different levels of object and subject reality, and that this connection can be understood and managed through the logic of the included third party. Although the embedded third party is full of mysteries especially in the field we deal with in this paper, it can prove useful when we seek to understand and manage the interactions between different levels of object and subject reality in international law. Applicably, when researching a specific issue, we are to consider not only its physical or political level, but also its social, cultural, economic and environmental levels. The logic of the mysterious third party included can develop a more robust and equitable decision-making process by integrating many different perspectives into the whole rule-making and enforcement mechanism. When negotiating and drafting an international convention, the perspectives and interests of different international groups and actors will be taken into account in order to arrive at a solution that truly encompasses as many aspects of the subject matter under codification as possible. An example is the Convention on the Elimination of All Forms of Discrimination against Women, a

²⁰ By applying this axiom, certain differences between the subjects of international law can be highlighted, depending on their legal nature, their capacity to take part in the normative elaboration and application process. Another current difference is that states are considered as the primary, classical subjects of international law, whereas international organisations, civil groups and other entities are considered as secondary or special subjects.

treaty that aims to eliminate discrimination against women and girls in all spheres of life, in which *TD* comes as a response to the globally sensitive issues of gender equality and women's empowerment, recommended as joint action by different stakeholders, including women's organisations, in decision-making processes²¹.

The epistemological axiom encompasses the complex structure of the totality of the levels of reality and each level is what it is because all levels exist at the same time. This axiom can find an effective role in public international law by recognising that the rules and norms of international law are constructed in the context of multiple levels of reality, which supports understanding and managing the interactions between the different levels of reality in the structure of international law issues. Issues of this kind are generally influenced by political, social, cultural, economic, environmental and security factors, and these levels of reality are clearly interdependent, influencing each other²².

5. Conclusion

The current rise of transdisciplinarity is marked by an exponential increase in publications, a widening range of contexts and a growing interest in the academic, public and private sectors. How? Through transcendence, problem solving and transgression. The idea of unity has been traced in the West as far back as ancient Greece. Theorists have identified new synthetic frameworks, including general systems, post/structuralism, feminist theory and sustainability. *TD* has become aligned with the imperatives of cultural criticism, socio-political movements, and conceptions of post-normal science and negative issues that break away from reductionist and mechanistic analyses, becoming a recognised premise in interdisciplinary fields including cultural studies, gender studies and women's rights, urban studies and environmental studies, human rights accountability and democratic participation. Research of this kind has a path from the taught to the emergent and from universality to hybridity and contextuality²³.

²¹ The Convention on the Elimination of All Forms of Discrimination against Women was adopted and opened for signature by the United Nations General Assembly in a resolution on 18 December 1979. It entered into force on 3 September 1981 in all UN Member States. See also the World Health Organisation's Global Strategy for Women's, Children's and Adolescents' Health (2016-2030) which demonstrates the need for a transdisciplinary approach to improving the health and well-being of women, children and adolescents, with a focus on collaboration across sectors and disciplines. These agreements may only include transdisciplinary principles or treatments to varying degrees.

²² E.g. on a general level, climate change and its regulation at international level we observe that they take into account not only the impact on the environment, but also on the economy, security and welfare of the population.

²³ Klein, Julie Thompson, *Reprint of "Discourses of transdisciplinarity: Looking back to the future"*, *Futures* 65, 2015, pp. 10-16.

All the theoretical efforts, if they were to achieve their goals, would result in women's rights eventually being respected and valued equally on a global scale, giving them equal opportunities for development and fulfilment in all aspects of life. It would mean that all women in the world, without exception, would have access to quality education and employment opportunities that allow them to reach their full potential, without being constrained by stereotypes or gender discrimination. They would have an active and influential role in decision-making processes, and would be assured that their perspectives and interests are adequately taken into account in society as a whole. We are talking here about women's reproductive rights, access to sexual and reproductive health services and control over their own bodies and lives. Gender-based violence can be combated and eliminated, and all forms of abuse and discrimination against women can be properly sanctioned by society through effective, modern legal systems. After all, every woman has an innate right to feel valued, respected and supported in her efforts to build a happy, balanced and fulfilled life.

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