

**AN ANALYSIS OF THE CHALLENGES TO ENSURING WOMEN'S RIGHT TO LIFE,
LIBERTY, AND PERSONAL SECURITY IN BRAZIL** <https://doi.org/10.63330/aurumpub.015-001>**Milena Alves dos Santos¹****ABSTRACT**

Since the beginning of the 21st century, Brazil has advanced in the recognition of women's rights in both legal and social spheres. Feminist movements, which gained visibility in the late 1970s, shifted public attention to gender-based violence, previously confined to the private sphere. Today, these issues are debated in schools, universities, and households. Nevertheless, the increasing rates of femicide, rape—including those against vulnerable victims—and homicide underscore the complexity of Brazilian women's lived realities, deeply shaped by a colonial legacy that perpetuates structural inequalities. This article seeks to analyze the challenges to guaranteeing women's rights to life, liberty, and personal security. It also examines how the Brazilian legal tradition has historically curtailed female autonomy and how misogyny continues to hinder the full realization of such rights. The study employs a historical survey grounded in bibliographic and documentary sources to identify mechanisms that legitimized and normalized violations against women over time.

Through a qualitative approach, the analysis critically reviews these sources and reveals the formation of a theoretical tradition that profoundly influenced the collective imagination of femininity. This tradition served to justify the disciplining and exploitation of women's bodies, the restriction of free will, and the suppression of their physical and mental integrity. Ultimately, the study highlights how these processes undermined women's dignity as citizens and stresses the urgent need to dismantle such structures to effectively ensure fundamental rights.

Keywords: Gender-based violence; Misogyny; Women.

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INTRODUCTION

In the first half of 2023, according to the Brazilian Public Security Forum, there were 722 femicide victims, representing a 2.6% increase compared to 2022 and the highest victimization recorded since 2019. As femicide is the final stage of gender-based violence, other data from the study were also alarming, with a significant 16.3% increase in cases of rape and rape of vulnerable individuals involving girls and women. This means that between January and June, every 8 minutes a female child or adult was raped in Brazil. Homicides of women (not directly linked to gender issues) also rose by 2.6%, affecting 1,902 individuals. It is important to note that despite these concerning figures, the reality may be even more frightening due to underreporting.

Furthermore, the violation of rights enshrined in Article 3 of the Universal Declaration of Human Rights continues to be reproduced in Brazilian society, underpinned by a desensitized society that coexists with and shelters violators/abusers within its core without significant consequences for them. It is necessary to understand that this social phenomenon does not stem from recent or isolated events in Brazilian or global history, but rather from a historical socialization based on a misogynistic structure that demands extreme female submission (GEVEHR & SOUZA, 2014). The patriarchal model was fueled not only by religious texts and groups that use mythology to control but also by legal and social resources to legitimize structural violence against the feminine (BEAUVOIR, 2019).

However, after years of struggle and resistance against patriarchal abuses, women's mobilization through the feminist movement pressured the State to respond to their demands. In Brazil, women achieved milestones such as suffrage in the 1934 Federal Constitution, albeit with reservations, and ceased to be considered legally incapacitated in 1962. It was only in 2002 that the Civil Code was revised to recognize gender equality in family leadership, followed by the Maria da Penha Law in 2006, which supports victims of domestic violence and reinforces the defense of fundamental rights for those historically treated as second-class citizens. Lastly, in 2015, the Femicide Law was enacted—99 years after the disuse of the Philippine Ordinances, which allowed husbands to physically punish or even kill their wives if adultery was suspected (SOUZA et al., 2009). Large portions of this legislation had been in force in Brazil since 1603.

It is evident that there is a social reproduction of female vulnerability, especially among Black women, due to disparities in labor market conditions, access to economic and social resources, education, and professional development (TOLEDO, 2008). Patriarchy presents issues that transcend social classes and systematically violate fundamental rights, which are exacerbated within the domestic sphere.

Given this context, the main objective of this article is to analyze the challenges that must be overcome to ensure women's rights to life, liberty, and personal security in Brazil. It also aims to understand the Brazilian legal tradition that historically curtailed women's freedom and how misogyny



obstructs these rights. To achieve these goals, bibliographic research was conducted using previously developed materials, primarily books and scientific articles, with key authors including philosopher Simone de Beauvoir (2019), philosopher Michel Foucault (1987), Norberto Bobbio (1982), among others. Documentary research involved consulting current and historical legislation to observe societal transformations and provide theoretical grounding. With qualitative nuances, the analyses were conducted through content review.

Finally, the article discusses the roles imposed on women throughout history, the legislation regulating women's rights in Brazilian society, domestic vulnerability based on federal government data, and the implementation of women's rights in contemporary society.

METHODOLOGY

This research adopts a qualitative approach, grounded in bibliographic and documentary surveys, with the objective of analyzing the challenges to the realization of women's fundamental rights in Brazil.

TYPE OF RESEARCH

This is an **exploratory and descriptive** study, aiming to understand the social and legal reality through critical analysis of normative documents and academic productions. The choice of a qualitative approach is justified by the need to interpret complex social phenomena, such as gender-based violence and the persistence of patriarchy, which cannot be fully understood through quantitative data alone.

TECHNIQUES AND INSTRUMENTS

Two main techniques were employed:

- **Bibliographic research**, based on classical books and scientific articles, including authors such as Simone de Beauvoir (2019), Michel Foucault (1987), and Norberto Bobbio (1982), as well as contemporary studies on misogyny, patriarchy, and gender-based violence.
- **Documentary research**, encompassing current Brazilian legislation and its antecedents, such as the Philippine Ordinances, the Civil Code of 1916, the Federal Constitution of 1934, the Maria da Penha Law (2006), and the Femicide Law (2015).

SAMPLE AND DATA SOURCES

The sample consists of selected **normative documents and bibliographic sources**, as well as statistical data provided by the Brazilian Public Security Forum (2023). The selection was intentional, prioritizing materials that directly address the theme of women's rights and their violations.



GROUNDING DISCUSSION

The analysis was conducted critically and interpretatively, aiming to identify the historical reproduction of female vulnerability and the legal and social mechanisms that legitimized gender inequality. The discussion connects recent empirical data on femicides and sexual violence cases with the theoretical and normative tradition that shaped women's position in Brazilian society. This allowed for a correlation between the impacts of misogyny and patriarchy and the need to enforce the right to life, liberty, and personal security.

RESULTS AND DISCUSSION

THE OTHER: DEMONIZATION, INFERIORIZATION, AND DISCIPLINING

To understand how female experience has historically been constituted, it is essential to grasp how patriarchal ideology—guiding the social structure and reproduced hegemonically in both macro and micro power relations—establishes itself and consequently affects women's lives.

To achieve the proposed objective, it is crucial to understand how the social legitimacy of one gender's exploitation by another was constructed. This involved the creation of a framework of philosophical ideals and theological myths, successfully implemented and embedded in popular imagination and beliefs. This belief system centers on female inferiority and demonization, alongside male superiority and divinity. These concepts date back to ancient civilizations such as Greek, Roman, Jewish, and Hindu, and persist in contemporary societies (GEVEHR & SOUZA, 2014).

Historically, the negative mental construction of the female figure is ancient. However, during the medieval period, it acquired peculiar characteristics, as the harshness of material life merged with ideological machinations to produce a dubious and malevolent female being. Possibly, the concrete reality and the stimuli received were decisive in shaping the irrational collective behavior that personified women as sinister and deceptive (GEVEHR & SOUZA, 2014, p. 3).

Thus, the social objectification and demonization of women—both their bodies and psyches—have long served to justify the violation of their rights and the blaming of women for any harm they might suffer (GEVEHR & SOUZA, 2014). Even with scientific development and the secularization of the State, myths and beliefs about women have persisted to maintain patriarchy. Following Foucault's (1987) concept of the disciplining of bodies, it is evident that historically, institutions and society have made significant theoretical and practical efforts to discipline female bodies by confining them to the domestic sphere, thereby restricting their relationships and movements (SANCHES, 2017).

Moreover, “the control of their activities, which become dependent on the lives and schedules of others such as children and husbands, contributes to the organization of genealogies, a stage in which a woman's existence is justified solely by serving the male and his offspring” (BEAUVOIR, p.17, 2019).



To complete the disciplining process of the female sex, a technique of force composition is used, whereby the normalization and enforcement of this behavioral model are massively reproduced—even by those undergoing indoctrination. For those who rebel, numerous coercive mechanisms exist, such as violence and legislation.

Additionally, the construction of an ideology portraying femininity as evil and inferior—morally, physically, and intellectually—validated a supposed need for male guardianship, thereby stripping women of control over their lives, bodies, property, and even their rights. In Brazilian society, this legitimacy of female exploitation by males was enshrined not only in constitutional texts but also in the Civil Code of 1916. Article 219, item IV, considered the deflowering of a woman an essential error regarding the spouse's identity. Article 6, item II, classified married women as relatively incapacitated while in a marital union (considered indissoluble), preventing them from exercising civil rights such as accepting or rejecting inheritances, practicing professions without their husband's authorization, managing inherited or acquired assets (except from previous marriages in case of widowhood), and traveling without express permission from their spouse (BRASIL, 1916).

Despite these numerous limitations, female singleness was frowned upon, seen as a transgression of a woman's sole purpose. In other words, there were no real possibilities for a life detached from the male figure without facing social disapproval.

“With marriage, a woman was demoted to the category of a minor, dependent on her husband, yet all women wanted to marry because single women were not socially accepted. An extreme paradox: marriage offered a woman higher social status, yet it significantly reduced her legal capacity and personality. Women were thus destined to live as permanent minors. The argument of women's intellectual incapacity was widely used to demonstrate that, by nature, they lacked reason and critical thinking.” (COLLING, Ana Maria, 2015, p. 5)

However, after years of feminist mobilization and resistance to patriarchal abuses, the State began responding to women's demands. Globally, discrimination against women was only recognized as contrary to human dignity in 1967, with the Declaration on the Elimination of Discrimination Against Women, the sexual revolution enabling greater independence and birth control, and the acknowledgment of the need for women's human rights within UN member states—since not all fundamental human rights are considered legitimate for women in some nations (BOBBIO, 1982).

In Brazil, women achieved milestones such as suffrage in the 1934 Federal Constitution (with reservations), and ceased to be considered legally incapacitated in 1962 with Law 4121/62. However, it was only in the 21st century, specifically in 2002, that the Civil Code was revised to recognize gender equality in family leadership. In 2006, Law 11.340, known as the Maria da Penha Law, was enacted to curb domestic and family violence against women. Before this law, assaults against women were considered minor offenses, and even in cases of murder, the perpetrator could invoke the “honor



cleansing” defense to justify femicide—a rationale often accepted by society (SOUZA et al., 2009). In response, Law 13.104 was enacted on March 9, 2015, classifying femicide as a qualifying circumstance for homicide and categorizing it as a heinous crime (BRASIL, 2015).

Despite these achievements, deeply rooted conceptions endorsed by religious institutions and the State for centuries have cast women as “the Other”—an enemy to be fought, the inessential (BEAUVOIR, 2019, pp. 13–17). These prejudices persist in the historically constructed division of social roles, reflecting a sexist and misogynistic society that long used legislation to discipline female bodies. This has contributed to the current reality of brutal social disparity, which becomes even more pronounced when intersected with race and gender (TOLEDO, 2008).

THE CHALLENGES TO ENSURING WOMEN’S RIGHT TO LIFE, LIBERTY, AND PERSONAL SECURITY IN BRAZIL

Brazil, as a former Portuguese colony, was heavily influenced by the legal and social frameworks of the metropolis. Additionally, due to the specific context of land exploitation, forced labor, and territorial conflicts, Brazil developed its own social regulations, with a strong emphasis on violence as a tool of coercion (JUNIOR et al., 2013). In domestic environments—from the wealthiest to the poorest—under a logic that positioned the man as the central pillar and owner of the family, he became the master of life and death over all those considered his subordinates: women, children, and enslaved individuals.

“A patriarchal sadomasochistic society, where women, children, and slaves were extensions of the will of their master. A society that barely knew animal traction, where white men did not bother to walk the streets on their own legs, being carried in palanquins by Black men. It was a society driven by human traction and primitively anti-egalitarian and anti-individualist.” (SOUZA, 2011, Apud JUNIOR et al., 2013, p. 114)

Thus, the violent reality experienced by women in the legal and social spheres did not change with the country’s independence, the proclamation of the republic, or even with the Civil Code enacted in 1916. This code, inspired by Napoleonic ideals, reinforced—through new language—the notions of ownership and impunity seen in the Philippine Ordinances. Although the new legislation did not explicitly permit the extermination of women, it introduced mechanisms that legitimized the immunity of femicide perpetrators and intensified a social perception of victim-blaming.



The year 1979 marked a victory for the feminist movement against the impunity of such murders, previously considered crimes of passion. During the trial of Doca Street for the murder of his partner Ângela Diniz in 1976, feminist protests emerged for the first time against the impunity in cases of women being killed by men. Ângela, initially the victim, was accused of “corrupting good morals,” “leading a dissolute life,” and “being a woman of easy virtue.” It was as if the murderer had rid society of a threat to the moral fabric of the Brazilian family. Feminist activists managed to reverse the narrative, and the murderer was convicted. From this episode emerged the slogan “Quem ama não mata” (“Those who love do not kill”), which later became a highly popular television miniseries (COLLING, Ana Maria, 2015, p. 12).

Despite the social mobilization of women’s groups since the early 1980s to bring gender-based violence into public discourse and to end the impunity of aggressors, it was only on August 1, 2023, that the Supreme Federal Court declared the legal thesis of “honor defense” unconstitutional when used to mitigate sentences or justify femicide (BRASIL, 2023). This decision demonstrates that, even with laws such as the Maria da Penha Law and the Femicide Law, many practices rooted in misogyny still permeate Brazilian institutions at various levels. A notable example is the case of influencer Mariana Ferrer, who was revictimized through blame during her trial, sparking national outrage and leading to the creation of Law 14.245/21, named after her, which protects victims of sexual violence throughout legal proceedings (BRASIL, 2021).

Furthermore, despite the enactment of laws such as Law No. 13.718/2018 on Sexual Harassment, Law No. 12.845/2013 on Immediate Care for Sexual Violence Victims, Law No. 14.192/2021 on Political Gender Violence, and Law No. 14.188/2021 on the Red Signal Against Domestic Violence, a major gap remains in the fight against and prevention of violations of women’s rights: the accountability of aggressors. Even with Brazil’s culture of mass incarceration, punishment alone does not contribute to the deconstruction of misogyny in the public consciousness, as both aggressors and society continue to blame victims to some extent (COLLING, 2015).

Moreover, the alignment with conservative ideologies by federal administrations in the second half of the 2010s led to the dismantling of social policies aimed at combating violence against women—policies that had been achieved in previous decades. As the issue was not considered a priority by the executive branch, budget allocations declined (RIBEIRO et al., 2018). In the first half of 2015, R\$64.45 million were allocated, followed by R\$59 million in 2016, R\$27.15 million in 2017, and R\$20.35 million in 2018 (RIBEIRO et al., 2018). In 2019, only 73.87% of the R\$76.56 million allocated were used, and in 2020, during the COVID-19 pandemic, only 29.45% of the authorized R\$141 million were spent (INESC, 2023). It is worth noting that investment in gender violence prevention was inversely proportional to the increase in rights violations, which resulted in one emergency call for domestic violence every minute in 2020 (GARCIA, 2021).

Finally, the reduction in investments negatively affects the operation of the few social facilities available to support women. The dismantling of other policies—such as housing, social assistance, health,



and education—also hinders female emancipation and allows the systematic perpetuation of violations of the right to life, liberty, and personal security.

CONCLUSION

Based on the research conducted, it was identified that historically, the discussion surrounding the prevention and combat of gender-based violence is a relatively recent theme in Brazilian society, fraught with cultural and structural challenges that must be overcome. Misogyny, when normalized, becomes a major obstacle to guaranteeing women's rights to life, liberty, and personal security. Despite the barbaric nature of this reality, it is not treated as a priority by certain government officials, nor by conservative factions with significant social influence, which condemn feminist struggles and reinforce narratives that portray women as submissive and subservient to male figures. These discourses often perpetuate victim-blaming rather than holding perpetrators accountable.

It was possible to understand that the Brazilian legal tradition has historically fostered the restriction of women's freedom and their right to life, and for a long time did nothing to ensure their personal security. However, recent advances—particularly in the last decade—toward the criminalization of violent behaviors that were previously normalized against women represent a recognition of feminist activism and the importance of popular mobilization. At the same time, it is evident that within the patriarchal capitalist system, structural challenges will always exist that hinder the implementation of effective public policies for the prevention and combat of rights violations.

Finally, it is essential to develop and implement public policies within both the Unified Social Assistance System and the Prison System that focus on the self-accountability of abusers, beyond criminal proceedings. These policies should have an educational bias and encourage reflection on the perception of the male social being as aggressive and violent, as well as the normalization of male domination and ownership over the female. Combined with the legal changes that are gradually being realized, this can lay the foundation for the genuine social recognition of women's rights to life, liberty, and personal security in Brazil.

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