THE PSYCHIC LIFE OF MEN AND THE KILLING OF WOMEN
A VIDA PSÍQUICA DO HOMEM E A MORTE DE MULHERES
LA VIDA PSÍQUICA DEL HOMBRE Y LA MUERTE DE LAS MUJERES

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ABSTRACT

The promulgation on the Feminicide Law (Law n. 13.104/2015) evidenced the conditions of judgment and comprehension on fatal violence against women on basis of gender and the lack of commitment related to the conventions of which Brazil is a signatory state, thus demanding legislative action for different responses. This work tries to establish the relationship between the concepts of feminicide and femicide and the studies on masculinities in the context of femicide violence, all while considering the national and international juridical order and feminist studies on violence as background. The route of the juridical advances is reviewed and discussed, with the understanding that the Feminicide Law is a new step in the production of a more egalitarian society, one that can only succeed if a reconsideration of the masculine experience and the androcentrism of the judiciary power in Brazil is considered.

Keywords: Feminicide; Femicide; Human rights; Masculinities.

RESUMO

A promulgação da Lei do Feminicídio (Lei n. 13.104, 2015) colocou em evidência as condições de julgamento e compreensão da violência fatal contra mulheres por razões de gênero assim como a falta de comprometimento com as convenções das quais o Brasil é signatário, o que exige a ação legislativa para que se produzam outras respostas. Este trabalho tenta estabelecer a relação entre os conceitos de femicídio e feminicídio com os estudos sobre as masculinidades no contexto da violência feminicida, tendo como pano de fundo os ordenamentos jurídicos internacional e nacional, assim como os estudos feministas sobre a violência. O trajeto dos avanços legislativos e jurídicos é recuperado e discutido, compreendendo-se que a Lei do Feminicídio é um novo passo na produção de uma sociedade mais igualitária, mas só poderá lograr sucesso se reconsiderar as vivências masculinas e o androcentrismo do poder judiciário brasileiro.

Palavras-chave: feminicídio; femicídio; direitos humanos; masculinidades**.**

RESUMEN

La promulgación de la Ley de Feminicidio (Lei n. 13.104, 2015) colocó en evidencia las condiciones de juzgamiento y comprensión de la violencia fatal contra mujeres por razones de género, así como la falta de compromiso con las convenciones de las cuales Brasil es signatario, lo que exige la acción legislativa para que se produzcan otras respuestas. Este trabajo intenta establecer la relación entre los conceptos de femicidio o feminicidio con los estudios sobre las masculindades en el contexto de la violencia feminicida, teniendo como tela de fondo los ordenamientos jurídicos internacional y nacional, así como los estudios feministas sobre la violencia. El trayecto de los avances legislativos y jurídicos es recuperado y discutido, comprendiéndose que la Ley de Feminicidio e un nuevo paso de una sociedad más igualitaria, pero, que se podrá obtener éxito si se reconsideran las vivencias masculinas y el androcentrismo del poder judicial brasileño.

Palabras clave: feminicídio; femicídio; derechos humanos; masculinidades.

Preamble

The promulgation and publication of the Feminicide Law (Law N° 13.104, 2015) demands answers to a series of questions that are now finally established as essential: is there a need to address feminicide a criminal category? Why dismember in the 21st century the crime of homicide and qualify feminicide as a matter for feminist movements and for politics?

These questions require consideration of the historical, cultural, and legal issues that have provided in Brazil the conditions for a lesser penalty and underestimation (Azevedo, 2008; Beiras et al., 2012; Blay, 2009) of crimes against women that result in death. If it were not for that, the law would have no *raison d'etre*, and it would be a mere rhetorical exercise or an innocuous political maneuver. Since its proposal is the result of the CPMI of Violence Against Women, it cannot be thought that it is a purely populist measure or that it has only a political effect. It constitutes one more way of coping with the extreme violence suffered by women, such as the Maria da Penha Law (Law N° 11.340, 2006). The distortions produced within the Brazilian judicial system when it comes to crimes of violence against women, especially feminicide, are the objects of these reflections.

One of the starting points that will lead us throughout the writing is the attempt to put the subject at the heart of reflection on violence, without aiming, as might be imagined, for the devaluation or denial of historical and social determinants undeniably present in situations of violence against women. The importance of thinking about the central importance of the subject lies in the clear demarcation that it is not only an institutional approach that will be reflected as a possibility of confronting violence - although, without a doubt, it is a necessary and often highly targeted by advocacy groups and even by the population itself. How to think, then, of the confrontation of the production and continuous reproduction of subjects that have as characteristic the use of violence as a way to relate with others?

In Brazil, the Law N° 13.104 / 2015 cemented the concept of feminicide defined as homicide against women for reasons of the female sex, being understood as those occurred in the context of domestic and family violence and of disparagement or discrimination against the condition of being a woman. The concept of feminicide used in Brazil, despite the suppression of the use of the term "gender" by virtue of a request of the evangelical bench in the Legislative (Campos, 2015), is similar to that used in several Latin American legislations (Carcedo & Sagot, 2000; Vásquez, 2009), and operates a fundamental division between femicide - understood as the State's lack of responsibility for the death of women on the basis of gender (Vásquez, 2009) - and feminicide, the murder of women on the basis of gender.

We assume that coping with homicidal violence is not only a matter of judicialisation (Rifiotis, 2004), but it is based on the idea that institutionalization and rationalization of practices are interesting outcomes in some situations, but not necessarily the only way to determine the exit from any situation. At this point we think of the discussion put forward by Butler and Spivak (2007) when thinking about the nation-state, what sustains it and what it produces in the subjects that are subject to it: when the subject always attaches himself to the State, it seems that there is no possibility of changing a situation that is not necessarily crossed by the state structure. However, this state structure is not always completely present, and is often not present at all - as evidenced by the experiences of women living in Brazilian favelas, where something is produced short of a state of exception (characterized by the temporary suspension of rights and constitutional guarantees), as a lack of the State; the powers that govern their lives are not the powers that govern the life of those who live outside this state of exception, in a normalized and standardized society. Now, if the State no longer offers any type of protection to this population, what alteration could be effected by means of the laws and the litigation of conducts? We will try to present first the structures involved in this judiciary, then its effects and, finally, the possibilities that are created to avoid falling into errors in dealing with the serious issue of the murder of women.

The Brazilian legal / legislative order and its relationship with international mechanisms

The strange title of this text is not intended to appeal to the aesthetic sense; on the contrary, it refers to the handling of the present conditions of judgment, especially in Brazil, Latin America and the Caribbean, when it comes to feminicide. According to Pimentel et al. (2006):

> are also found in theories, legal arguments and judicial decisions that, for example, construct, use and enforce the figure of legitimate defense of honor or violent emotion to - directly or indirectly - justify the crime, blame the victim and ensure full impunity or reduction of punishment in cases of assaults and murders of women, generally practiced by their

> husbands, companions, boyfriends or respective exes. (Translated from Pimentel et al., 2006, p. 66)

That is, the interpretation is clear: the intentional killing of a woman matters little against the mental conditions of the subject who killed her. This single fact suffices to show how our jurisprudence has distorted the international agreements of which it is a signatory, especially the Convention on the Elimination of Discrimination Against Women (CEDAW), the UN convention adopted in 1979 by the General Assembly. In summary, CEDAW imposes on the signatory States three basic conditions: (a) to incorporate the principle of equality of men and women into their legal system, to abolish all discriminatory laws and to adopt appropriate laws prohibiting discrimination against women; (b) to establish courts and other public institutions that ensure the effective protection of women against discrimination; and (c) to ensure the abolition of all acts of discrimination against women by individuals, organizations or enterprises.

Clearly, if we discuss discrimination, it is because here lies a core of difference, of unequal conditions of power between parties. The basic issue, therefore, is that men, in the midst of the twenty-first century and more than three decades after the accession of the signatory countries to the CEDAW Convention, continue to enjoy a social position that is hierarchically superior to that of women. Even if this does not occur as aberrantly as in a more distant past, they still have in the juridical scope great malleability in the interpretation of their violent acts, which certainly reinforces the conditions of "*assujetisement* ", as indicated by Butler (2003, p. 195), the conditions of subjectivation and subjection in the formation of a subject, being at the same time a regulative and regulated formation, determinant of the relations of power in the social world.

The second question is: how can the Brazilian State, even after the elimination of the pretext of the legitimate defense of honor as a defense for the murder of a woman, accept as a direct and correlated substitute the pretext of violent pure emotion as an acceptable defense for a murder? Apparently what emerges in this situation is a historical and cultural backbone, still present in the legal mentality of Brazil. It will not be possible to feed a more in-depth discussion of this topic without the availability of research data.

Turning to the question of CEDAW, it is necessary to elaborate the reason why a convention that aims at eliminating discrimination is so important for the issue of violence, especially feminicide. The definition of discrimination used in the Convention opens the possibility of a broader reflection on violence against women, since it is understood as:

> For the purposes of this Convention, the term "discrimination against women" shall mean any distinction, exclusion or restriction based on sex and that has the aim or effect of harming or invalidating a woman's recognition, enjoyment or exercise regardless of her marital status, based on the equality of men and women, human rights and fundamental freedoms in the political, economic, social, cultural and civil fields or elsewhere. (ONU, 1979, p. 02)

The issue of human rights and civil rights is of particular interest in this conceptualization, but it is clear that all other rights are absolutely essential when dealing with a true social democracy, as it was intended to be established by the Brazilian Constitution of 1988. Not only are these rights essential, they are also interdependent. Human rights constitute an extensive list presented in the Universal Declaration of Human Rights (1948) and in the Brazilian domestic legal order, constituting the indivisibility of individual, social, political, economic and cultural rights (Robert & Magalhães, 2002). The right to life without violence (or the protection of the monopoly of violence to the State) is therefore listed among individual and social rights. The issue that arises is that placing the right to life without violence between individual rights (of all subjects) ends up personalizing them in a way that makes it impossible to target groups that are effectively violated as a whole - in Brazil there is no difficulty to locate groups with problems associated with class / race / ethnicity / gender issues. For such reasons, there is indeed the need to locate the right to livable life within the framework of broad social rights.

The mechanisms for the exercise of freedom or human rights are interdependent, always supported by a codependency framework. Here it is necessary to make explicit that the extinction of one of these rights affects decisively all the others, which highlights the need of the constant work of safeguarding the already established and conquered rights, especially since historical experience has already shown that "the simple declaration of a right will never be enough to guarantee its effectiveness " (Robert & Magalhães, 2002, p. 206). We can only speak of established rights when they are also actively maintained by a structure, be it political, social or even cultural. Notably, these structures are only maintained when subjects are involved in their maintenance (forcibly or not), which justifies the great concern with the small daily sexist discourses (or neosexisms) (Martínez & Paterna-Bleda, 2013).

Historically, at least two important trends have been outlined so that we can understand the current UN

vision of human rights. The first is the classic liberal conception that, according to Tocqueville (1998), defends the correlation between property and freedom; and the second, the liberal-democratic, which defends the correlation between equality and freedom. This second would be the initial conception that would lead to the current picture.

The social and democratic state of law adds to the core of fundamental rights of property and freedom (also called individual and political rights) the new social, economic and cultural rights. The effects of this state characterization on the subject are what directly concern this work, especially the emergence of "a new concept of individual, which goes beyond the liberal concept. It is an individual who possesses all the rights that can allow his complete integration into the society in which he lives" (Robert & Magalhães, 2002, p. 211).

Having summarized the origins of the present conception of the subject under the law, we present the result of the sufferings of World War II, especially the parts of the celebrated Universal Declaration of Human Rights (UDHR, 1948) of December 10, 1948. Some parts of both the preamble to the UDHR and the articles dealing with human rights and, consequently, the issue of femicide and feminicide are reproduced below:

> Preamble
>
> Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,
>
> Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom.
>
> Whereas Member States have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,
>
> Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge.
>
> **Article 2.**
>
> Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.
>
> Article 3.
>
> Everyone has the right to life, liberty and security of person.
>
> Article 5.
>
> No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.
>
> Article 6.
>
> Everyone has the right to recognition everywhere as a person before the law.
>
> Article 7.
>
> All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.
>
> Article 30.
>
> Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein. (UDHR, 1948)

Finally, we emphasize here the importance of UN Resolution 32/130 of 1997, which proclaims the indivisibility and interdependence of all human rights. This is important for the fact that without economic, social and cultural rights, civil and political rights would make little sense to much of the population. In addition, without the former there would be no possibility of full exercise of the latter,, which would make us summarize human rights to the initial liberal rights and put ourselves in the same historical position of creating an irremovable power elite, to whom are referred the rights which are denied to the popular classes.

We return to the question that began this brief discussion on human rights: the distortions produced within the Brazilian judicial system when it comes to crimes of violence against women, especially feminicide. The distortions and lack of commitment to the conventions to which Brazil is a signatory are clear, as evidenced by some elements of Brazilian law: (a) the expression "honest woman" was still present

in the Criminal Code (CP) when dealing with victims of sexual offenses, such as "violent abduction", until 2009. Law N°. 11.106 of March 28, 2005 revoked part of the Criminal Code that contained the expression, the remainder being revoked by Law N° 12.015[2], of August 7, 2009; (b) the term "virgin woman" was also present in the Penal Code until 2009, referring to crimes of seduction. The parts of the CP that contained the expression were also revoked by Law N° 11.106 / 2005 and by Law N° 12.015 / 2009; (c) adultery was criminalized until 2005, and revocation was given by Law N° 11.106 / 2005; (d) sexual offenses, while referring to sexual freedom (an integral part of human rights), were still part of the "Crimes Against Customs" of the special part of the Penal Code. "Crimes Against Customs" is an expression that implies a valid moral order, especially a patriarchal order that understands women as properties of men. The title was also amended by Law N° 12.015 / 2009, now reading "From Crimes Against Sexual Dignity" and "From Crimes Against Sexual Freedom"; (e) in the general part, the article 107, item VII of the Criminal Code also maintains the possibility, by means of a legal provision, of the extinction of the punishment by the marriage of the agent with the victim in all sexual offenses, called "crimes against customs", a conception finally extinguished by N° Law 11.106 / 2005.

We had until recently - less than a decade ago - legislation referring to extremely old codes such as the Code of Hammurabi (from 1780 BC), the Code of Nesilim (from 1650 BC) and the Code of Assura (from 1075 BC), which many times allowed a woman's death in the case of her having been raped inside the home or by a man she who was not married to. Article 107[3] of the Penal Code of 1984, in section VIII, stated, until March 28, 2005, that the marriage of the victim with a third party would act as an extinguishing cause of punishment[4] in crimes against customs practiced without real violence or serious threat, placing the deadline of 60 (sixty) days for the offended to make the request to continue the police investigation from the day of the celebration of the marriage. Article 107 of the Criminal Code thus prevented punishment, stating that the perpetrator of sexual crimes could not be punished as soon as he married the victim or when she married a third person, consequently relieving the man of any criminal responsibility for the crime committed. Sexuality and the rights of women are therefore understood as the currency of exchange between men, according to Rita Segato (2005), in what converges with Gayle Rubin's (1993) vision of trafficking of women as a paradigm of social structuring. If the marriage was not made unfeasible by the violence suffered, nothing is wrong, and the offense is forgiven (Pimentel et al., 2006).

The various flaws in Brazilian legislation highlighted above are not the only ones present in Brazilian law. Perhaps more revealing than the presence of various ways of escaping the penalty of rape or physical aggression against a woman is the ease with which jurisprudence still works with the death of women as a common and acceptable reflection of a loving relationship, such as according to Pimentel et al., 2006:

> the practice of reproducing gender-based violence against women is also present, in addition to certain aspects of legislation, in the content of legal arguments and judicial decisions that incorporate stereotypes, prejudices and discrimination against women who suffer violence, disqualifying them and converting them into culprits of the crimes in which they are victims. (Pimentel et al., 2006, p.80)

This last argument of the inversion of the victim as the culprit is a tactic that has already become common, often present in defenses of sexual crimes (Azevedo, 2008; Segato, 2006) that put the woman as initiator of the sexual contact by the man's interpretation of the way she looks at him, her language, her choice of clothing or any other trivial detail that does not imply - in any way - consent.

The defense resources that make up a surrealist picture in contemporary Brazil, however, do not stop there. The "legitimate defense of honor" style argument in theory no longer appears in our code, but in terms of jurisprudence it remains alive and strong in the country's legal ideals, as a quick survey can demonstrate. Pimentel and collaborators (2006, p. 80) point out that:

> It is in the so-called "crimes of honor" and, in general, in cases of assaults and homicides against women, practiced by their husbands, companions, boyfriends or their respective exes - under the allegation of adultery and/or the woman's desire for separation - that discrimination and violence against women gains maximum expression. In order to "defend the conjugal and/or the accused's honor", seeking to justify the crime, to guarantee impunity or to reduce the sentence, legal operators use the thesis of legitimate defense of honor or violent emotion, and of any and all resources to disqualify and blame the victim for the crime, judging not the crime itself but the behavior of the woman, based on a sexual double moral. (Pimentel et al., 2006, p. 80)

Furthering the legal issue, Lagarde et al. (2006, p.5) consider that not only the operators of the law are at the center of the discussion on feminicide, but

also the State itself. This assertion is derived from the view that in order for a feminicide to occur, silence, negligence and connivance of other authorities (police, legal or assistance) that are supposed to work in order to eradicate and prevent this type of crime. Therefore, "there is a femicide when the State does not give guarantees for women and does not create safe conditions for their lives in the community, in their homes, in their workplace and leisure spaces. That is why femicide is a state crime" (Pasinato, 2011, p. 234). To classify femicide as a state crime is a strategy of political action aimed at demonstrating how the nation-state is conniving with the situation of the murder of women for sexist reasons. Brazil could certainly be accused of this collusion, as it is currently the seventh nation with the highest number of feminicides per 100,000 women on the planet, with a total of 4,465 cases in 2010, which translates into a rate of 4.6 feminicides per 100,000 women (Waiselfisz, 2012).

The victim as a defendant and the defendant in the victim's position? Masculinity as a useful category

What truly causes discomfort is not the question of feminicide being tolerated by loopholes of the law, accommodated as a crime of lesser offensive and punitive potential by the legal order until very recently, or even the acceptance of archaic defenses as a way to reduce the penalization of those who commit it. The real nuisance is caused by the fact that the act of feminicide is seen as a subjacent matter when the mental / emotional state of the man is emphasized as a justification for his violent behavior, capable of alleviating his responsibility for such criminal act. Thus, we do not intend to elaborate a critique of masculinities, due to the cultural elements associated with them in socialization processes, but rather to reflect and criticize the justifications of violent acts as products of the norm, and therefore, common effects of the naturalization of violence that are transmuted into acts of murder.

Thus, it is also necessary to reflect on what exactly this experience of masculinity is and what are some of its immediate effects for those who subscribe to this logic. As Juan Carlos Ramírez Rodríguez (2008) points out, we can take masculinities as a non-univocal object that is distributed along different axes. The author stresses two: one called the hard structural axis and another called the soft structural axis. The hard structural axis consists of: (a) work, (b) economy, (c) violence, (d) identity and (e) race-multiculturalism. The soft structural axis contains three areas that directly impact men: (a) paternity, (b) sexual and reproductive health, and (c) vulnerability. This last one is one of the still new axes of research regarding the masculinity, being the work of Nogueira and Santos (2011) one of those that aim to be a state-of-the-art of the field. At this point we find the lower male life expectancy, alcohol and drug consumption, suicide, the tendency to devalue health against the need to work, social exclusion and lower levels of schooling.

Correspondingly, Deborah David and Robert Brannon (1976) use a model composed of four rules that, according to them, define masculinity: (a) "No Sissy Stuff": anything that might even remotely give the impression of femininity is forbidden ; (b) "Be a Big Wheel": Manhood is measured by success, power and admiration of others; (c) "Be a Sturdy Oak": manliness requires rationality, rigidity and self-confidence; and (d) "Give 'em Hell": men must have an aura of impetuosity and aggression and must be willing to take risks, even when rationality or fear suggest another way. It should be made clear that the model of David and Brannon (1976), in addition to being older, is clearly caricatural and touches much more on what we might call a hegemonic masculinity[5] (Connell & Messerschmidt, 2013), defined as a central pillar of masculinity to which all men would somehow report and try to attain.

The Rodríguez (2008) model is more extensive and developed, and also seems to be a more interesting way of introducing the deeper discussion needed for this work. It is evident that, although vulnerability is still an under-researched subject, it is precisely the aspect taken into account in the jurisprudence regarding feminicide. It is this vulnerability, theorized by the anthropologist Lia Zanotta Machado (2004) as the tendency of the man to consider that he is hostage of an unrestrained sexual desire and of feelings with which he does not know to handle or even to control minimally, that is used by those who defend men who commit feminicide as having simply been victims of themselves.

Colonization and its derivations seem to have been the structural model used to organize Brazilian legal pathways - the constant claim that the Brazilian judiciary only works to punish blacks and the poor is not out of the question, given this perspective. Domination always seems to have been the preferred form of organization in the Brazilian territory. "It is crucial to remember such stories if we want to understand continental and global relations in the present, particularly in Latin America and Africa" (translated from Seidler, 2009, p. 114).

Male violence does not only affect men themselves, and we must not forget that one of the central elements of domination is precisely the control of part of the population, not by direct violence, but by the threats to these more vulnerable sections of the population. It is relatively easy to understand the constant threat women face: the threat of rape everywhere, the threat of violence whenever heteronormativity is challenged, the threat of withdrawal of rights whenever their sexuality falls outside the clear limits imposed. Not only women suffer from this, since the "violence perpetrated often by these masculinities is regularized on the grounds that, in the patriarchal culture, it is the male's obligation to discipline and control his wife and children" (translated from Seidler, 2009, p. 114).

We may consider that there is a possibility of analyzing masculinities through cultural questions; therefore, it becomes impossible to consider perhaps the most privileged locus of constitution of masculinity: discourse. According to Mériti de Souza (2011), within discourse we find aspects that refer to an individual subject as a result of, among other elements, formal and causal logic (it is important to remember how logic is one of the arguments often used to qualify that which is masculine, and, consequently, to disqualify the female experience), hierarchical binarisms and disjunctions, linear and stable represented representations, and, last and perhaps most importantly, phallogocentrism - a concept created by Jacques Derrida (Peretti, 1990) that refers to a single nucleus: the centrality of the phallus in Western culture, always associated with logos, excluding pathos and everything that concerns it. Souza's recommendation (2011, p. 76) for this process of analysis to be possible is to problematize the theories that gain hegemony and anchor the production of knowledge as well as anchor the subjective productions, opening the way to understand the path that maintained power and violence as agents so present in human life. Going further, one might think that a scenario of reigning epistemic restraint ((which generally does not want to conceptualize man beyond the universal that he has represented in the human sciences for centuries), which does not give up the relation to knowledge and power, could never enable the comprehension of a fact as irrational and meaningless as acts of violence (including those of feminicide), since what defines violence is precisely the incapacity of representation (Souza, 2011, p. 77).

Binarisms define and often embody the violence perpetrated by those who subscribe to masculinity, but we cannot help but understand that the very process that defines and naturalizes binarisms is also somewhat aggressive in its way of defining and designing intelligible forms of subjection. This is the historically characteristic and undoubtedly intrinsic way of thinking, researching and knowing in the West, and it is necessary to understand how one can construct outputs for how one thinks and produces subjectivities (Souza, 2011, p. 77).

Laws produced within a phallogocentric culture support and stimulate the social valorization of the symbolic place represented by masculinity. This is a legal consolidation of male domination, which is also associated with leniency in the punishment of men who attempt against subalternity (which is often embodied in females). This legal domination also works against men themselves, inasmuch as it prevents them from having behaviors or habits that may somehow not be considered as masculine. As already stated by Connel (1995), hegemonic masculinity needs a constant work of estrangement from femininity and the maintenance of a clear masculine deterministic in every act.

We also have to take into account that an omissive law on the dynamics of private relations, legally constituted from the beginnings of the European law (see *pater familias* in the Greco-Roman tradition), ended up functioning as a facilitator of male power over women and children in the family environment, constituting a true patriarchy. This supremacy and power over others had and still has the effect of producing conditions of possibility of the use of violence, often also legally sanctioned (as in the case of crimes of honor), and femicide is nothing more than the contemporary name of a crime which is as old as western civilization as we recognized it until the year 2006 when the Maria da Penha Law was promulgated in Brazil (Law N° 11.340, 2006).

The Maria da Penha Law, promulgated in Brazil in 2006, is a milestone in the politicization of the fight against violence against women, and is a fundamental event in this context. The law changed legal and police practices and positions in the assistance, understanding and referral of cases of violence against women (Debert & Gregori, 2008), even if it is understood that there is still a need to improve the processes of their application (Meneghel et al., 2013). The effects of the law were also found in statistics on complaints, inquiries and trials involving violence against women, indicating a decline in those numbers in the first year after the enactment of the law, and a subsequent increase in later years (Cerqueira et al. 2015). It should be pointed out that the great publicity made by the media around the law has had significant effects on the symbolic and discursive structures in Brazil and that one of the great problems to be overcome is the androcentric bias of the Brazilian judiciary (Campos & Carvalho, 2011)[6].

Final considerations

To say that the public sphere is completely dominated by men would be naive, since, after feminist movements and the social changes of the last decades, this reality has been changing. However, we must consider that men, for many years and even today, have their power of domination of private life legally sanctioned. The public / private dichotomy is useful as an analytical tool, but it seems to overlook elements associated with parenting and family structure, such as providing, which eventually functions as a regulatory tool for female finance and behavior (Hamad, 2013). Economic and relational disputes are at the heart of a number of situations that lead to feminicide (Coyne-Beasley, Moracco, & Casteel, 2003), and understanding private life is an essential demand in order to correctly assess the weight masculinities have on the chances of feminicide occurrence.

Returning to the question of the law, Pedro Paulo de Oliveira (2004, p. 69) states that "the letter of the law provided the fuel for the machine and operational flow of surveillance of ideal male behavior to function," that is, being a man implies not only that homossociability (Welzer-Lang, 2004) is at stake when it comes to defining who is more or less close to the societal ideals of masculinity, but that the law also affects it. This incidence occurs not only in terms of typical criminal conduct, but also in the criminalized sexual behavior, namely sodomy and those already eliminated from our code, but still present in cultural ideals, such as violent acts of shame. Welzer-Lang (2004) supports the thesis that gender is maintained and is both defined and regulated through violence. It understands that, in this way, the power structure is kept collectively and individually attributed to men, at the expense of women. Relations between men are also marked by differences and both symbolic and concrete violence.

In conclusion, we believe that it is important to emphasize that although several studies have been carried out to try to define quantitatively what is found in the acts of feminicide, the relations between the feminicide act and the naturalization and essentialization of violent masculinities are present in the analyzes on the subject, few works on feminicide turn to the approach of masculine motivations as justifications for this type of crime and to the sustentation of these motivations through the jurisprudence and the Brazilian legislation.

This issue needs to be addressed in the context of public health prevention policies, in order to prevent Brazil from occupying the seventh position among the 94 countries that keep records of cases of feminicide (Waiselfisz, 2012). It is possible to affirm that there is an interweaving between issues of masculinity, macho culture, sexism and even an inability to understand women as rights holders (Machado, 2004) in situations of violence between men and women. It seems to be even more evident than ignoring the murderers themselves in a situation like feminicide, or considering that their passions (or pathos, as Souza prefers, 2011) prevent them from understanding their own actions, is a simplistic argument.

It seems that we are dealing with an effectively phallogocentric society, which takes the word, order, law, sociability, and normative standards of masculinity and conjugates them in an absolutely contrived way to justify the reduction of the murderer's punishment or acquittal, based on the understanding of his mental suffering as an outraged, abandoned or wicked man. So how can we break the discourse and the law that underlies the claim that a woman's life is worth less than a man's passion?

Notes

1 Law N° 11.106 of March 28, 2005 - Amends arts. 148, 215, 216, 226, 227, 231, Adds art. 231-A to Decree-Law N° 2.848, of December 7, 1940 - Penal Code and other measures.

2 Law N° 12.015, of August 7, 2009 - Changes Title VI of the Special Part of Decree-Law N° 2.848, of December 7, 1940 - Penal Code, and art. 1 of Law N° 8.072 of July 25, 1990, which provides for the heinous crimes, under the terms of item XLIII of art. 5 of the Federal Constitution and repeals Law N° 2.252 of July 1, 1954, which deals with the corruption of minors.

3 Law N° 7.209, dated 11.7.1984 - Alters provisions of Decree-Law N° 2.848, of December 7, 1940 - Penal Code, and makes other provisions.

4 The provisions stating that the punishment of sexual offenses by the Law N° 7.209 / 1984 has been extinguished are: VII - by the marriage of the agent with the victim, in crimes against customs, defined in Chapters I, II and III of Title VI of this Special Part code. VIII - by the marriage of the victim with a third party, in the crimes referred to in the preceding paragraph, if committed without real violence or serious threat and provided that the offended person does not request the continuation of the police investigation or the criminal action within sixty days from the celebration of the marriage.

5 "Hegemonic masculinity was understood as a pattern of practices (ie, things done, not just a series of role expectations or an identity) that made it possible for men's domination over women to continue." (Connell & Messerschmidt, 2013, p. 245)

6 For a current reflection on Law 11.340, in its unfolding and application in Brazil during its nearly eight year period, check the Dossier Balance Sheet on the Maria da Penha Law (Sardenberg & Grossi, 2015).

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