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Editorial – Volume 3 – nº 02- 2025

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The Journal targets a broad and diverse audience of academicians, professionals, and students in Law, Medicine, Biomedicine, as well as policy makers, law operators, and legislators in health care.

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Gender violence and the limits of the normative legal protection system
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Abstract

Background: As a result of the violence practiced against women, a legal and regulatory framework has been created at international and national level to protect them. In Brazil, Law 11.347/06, known as the Maria da Penha Law, identifies the types of violence and establishes mechanisms to prevent and curb it. The classification of the forms of violence practiced against women described in this law has been improved, for example by establishing a correlation between psychological violence and property violence. Identifying the forms of violence allows us to understand the relationship between violence and the effects it has on women's health. **Problem**: To what extent has the protection system created by the Brazilian state to prevent and curb gender-based violence been able to achieve its purpose? **Objectives**: to reveal that the patriarchal model of society is one of the factors that contribute to the perpetration of violence against women; to establish a comparison between the legal framework for the protection of women and the Brazilian reality. **Method**: This is an exploratory, qualitative study based on an analysis of scientific articles, doctrine, documents and data compiled by research institutes**. Results:** The evolution of women's protection under both international and national legislation has stimulated the construction of public policies and measures to protect women who are victims of violence. This normative framework is important, however, it is clear that data from the Brazilian reality still reveals that there are high rates of violence against women. **Conclusions**: Gender-based violence is a consequence of patriarchy and also has negative effects on women's psychological health. Despite legislative progress, women who suffer domestic violence encounter huge obstacles in accessing the protection mechanisms created by the Brazilian state, due to the strong historical, social and cultural roots of patriarchy, which are revealed in the alarming statistics on gender violence.

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Keywords: Women's Rights, Domestic Violence, Psychological and Property Violence, Women's Health.

Introduction[5]

Society lives with violence against women, even though there are laws to curb such violence, as well as media coverage and the existence of reporting channels to guide and help women who suffer violence. (Leme at al, 2021, p.136).

The article reveals that domestic violence has historical and socio-cultural origins, as it is based on patriarchy, which places women in a position of submission, devaluation and unequal status in relation to men, which legitimizes, trivializes, promotes and silences violence.

The study briefly presents the international and domestic legal-normative system that has been built up since the 20th century with the aim of safeguarding women's rights; it analyzes aspects of the Maria da Penha Law, sets out a list of existing protective measures and presents recent data on violence against women.

The main objective of the study is: 1. to reveal that the patriarchal model of society is one of the factors that contribute to the perpetration of violence against women; 2. to establish

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a comparison between the legal framework for the protection of women and the Brazilian reality.

The research is exploratory and qualitative, based on scientific articles, doctrine, documents and data compiled by research institutes.

1. Historical aspects of domestic violence

Violence against women has a historical and socio-cultural origin, where men are seen as stronger, due to the culture of patriarchy, which is still rooted in today's society, where men dictate the rules and women obey the rules dictated by them (Leme at al, 2021, p.136).

The doctrine mentions that since patriarchy, male supremacy has prevailed in social relations, that is, the submission of women to men, with punishment for the offender, when the rules imposed by the patriarch are not complied with (Balbinotti, in Leme, 2021, p.136).

Almeida (in Leme, 2021, p.136) states that society is viriarchal, because the man, even if he is not the father, assumes the position of dominance.

The macho culture is still dominant, causing women to be devalued and unequal to men.

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Fear and respect for the husband (submission) are already ingrained as a cultural characteristic of society, based on ancient concepts and beliefs of domination, which is not questioned because it goes against religious, moral, economic, psychological and social thinking (Menezes, 2000).

We have various documents and organizations created to protect women's rights, such as the Inter-American Commission on Women (CIM-1928), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW-UN-1979), which came into force in 1981 and was ratified by Brazil in 1984.

Created by the UN in 1982, the Committee on the Elimination of Discrimination against Women has the task of examining progress in the implementation of the Convention, as well as access to the global protection system.

Article 5 of the Federal Constitution of 1988 grants equal rights to men and women, based on the principle of isonomy, but in the face of social culture, these rules are only formal.

Violence against women comes in many forms and affects all races, ethnicities, social classes and levels of education. It is not an isolated event, as such violence takes the form of a sequence of episodes, which usually become more severe.

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According to the UN definition (1992), violence against women is "...any act of violence based on gender difference, resulting in physical, sexual and psychological harm to women, including threats of such acts, coercion and deprivation of liberty, whether in public or private life."

In 1993, at the United Nations Conference on Human Rights, it was recognized that violence against women is an offence against human rights, and it was stated that such violence is a fact of public domain (Vienna Convention, 1994).

Domestic violence has been recognized by the World Health Organization (WHO) as a public health issue, which negatively affects the victim's physical and emotional integrity, their sense of security, a vicious circle of "comings and goings" to health services and the consequent increase in public spending (Grossi, 1996).

In Brazil, we have the Belém do Pará Convention, which states that gender-based violence can occur in the sphere of the family, the domestic unit, the community and institutions. (IACHR, 1994)

Violence against women is characterized as a pandemic, as it is prevalent at an international level, given that 30% of women in the world have suffered some type of domestic violence perpetrated by an intimate partner. In Brazil, 27.4%

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of women aged 16 or over have suffered some form of physical or psychological violence or harassment in 2018 (Leme et al, 2021, p. 138).

2. Domestic and intrafamily violence and types of violence

Violence against women stems mainly from gender inequality, occurring since childhood, and is motivated by jealousy and infidelity, which generate physical, psychological and social consequences, having a higher incidence in the domestic and family environment, due to the culture of patriarchy (Leme et al, 2021, p. 138).

Studies carried out in Brazil show that 42% of violence against women occurs in the domestic environment (IBSP and Data Folha, 2019), and can be classified as physical, sexual (the ultimate expression of gender inequality), moral, property and psychological (Article 7 of the Maria da Penha Law). It should be noted that violence has now reached the virtual environment (Leme et al, 2021, p.139).

A recent study by the Brazilian Institute of Geography and Statistics points out that domestic violence against women has increased considerably in Brazil, indicating that among 100,000 women, in 2021 and 2022, there were 230.1 and

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236.7 records of domestic violence, respectively. In the same years of 2021 and 2022, it was also found that in 11 Brazilian states there was a decrease in violence against women, but in the other states there was an increase in violence, with the states of Amazonas and Roraima showing the highest rates of increase in violence against women.

According to the Maria da Penha Institute, based on the Law of the same name, in Chapter II, Article 7, items I, II, III, IV and V, there are five types of violence against women: physical violence, psychological violence, sexual violence, property violence and moral violence.

According to the Institute, physical violence is considered to be any conduct that offends a woman's bodily integrity or health, which can be characterized by the aggressor beating her, throwing objects, shaking and squeezing her arms, strangling or suffocating her, injuries with sharp or piercing objects, injuries caused by burns or firearms and torture. Sexual violence is any conduct that forces a person to witness, maintain or participate in an unwanted sexual relationship through intimidation, threats, coercion or the use of force. Examples of these practices are rape, forcing a woman to perform sexual acts that cause discomfort or repulsion, preventing the use of contraceptive methods or forcing a

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woman to have an abortion, forcing marriage, pregnancy or prostitution through coercion, blackmail, bribery or manipulation, limiting or annulling the exercise of a woman's sexual and reproductive rights. Moral violence is considered to be any conduct that constitutes slander, defamation or insult, characterized by accusing a woman of betrayal, making moral judgments about her conduct, making untruthful criticisms, exposing her intimate life, demeaning a woman by cursing her character, devaluing the victim because of the way she dresses.

We must also mention discrimination against women, which is invisible, a practice of disrespect, through jokes, public comments, advertisements, songs, inferiorizing women, stating that women should be restricted to the kitchen, the bed or the shadows (Penha, 2012).

3. The Cycle of Violence Theory

The term Cycle of Domestic Violence was coined by American psychologist Lenore Walker to identify certain patterns of abuse in relationships of affection, as well as stating that it is very difficult for women to leave a violent affective union, which represents a vicious, repetitive pattern

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in the same relationship, as it is renewed with each aggression (Leme et al, 2021, p.140).

This cycle is divided into three phases (Soares, 2005): Phase 1 - tension in the relationship. It begins with arguments, jealousy, verbal aggression, without physical violence. The woman seeks justification for the tension and this phase is indefinite. Phase 2 - maximum tension. Physical aggression and psychological pressure begin, and this phase lasts less than phase 1. Phase 3 - begins after the actual violence, when the aggressor repents and promises not to commit any more violence, so as not to break off the relationship, and the cycle continues.

This cycle can be understood by the patriarchal - macho pattern, which comes from a historical condition of submission with more complex non-physical abuse, passed down from generation to generation within the family structure.

The aggressor's promises of change give the violence a cyclical character, which takes the form of moments of aggression and love. It is therefore important for women to be aware of the cycle in which they are involved, so that they can get out of the situation (Miller, 1999).

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The majority of women remain in relationships because of their economic and social dependence on their partner, and aggressors use strategies to maintain their relationships.

Women are unmotivated to file complaints because they fear retaliation, because it is a personal matter, because of the humiliation of exposing the fact at the police station, because of the guilt and shame of the aggression, because of the difficulty of reporting the aggressor in cases of rape, because of the aggressor's economic dependence, because of the family constitution with the aggressor and because of the children (Campos, 2012, p.39).

Several factors can also trigger domestic violence, such as the use of alcohol, psychotropic drugs and illicit drugs, as well as the presence of bladed weapons and firearms in the domestic environment.

4. Data related to violence against women

Research shows that 52% of women do not take action after suffering violence, and 22.2% who seek help report the aggressor (IBSP and Datafolha, 2018).

The São Paulo Public Prosecutor's Office, according to a survey carried out between March 2017 and March 2018, found that of the 124 cases of femicide, only 5 had a police

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report against the aggressor, demonstrating the silent attitude of the violated woman. This statistic also occurs at an international level, due to the failure of the state to guarantee the effective protection expected by women and the simple fact of not reporting it (Leme at al, 2021, p.141).

During the pandemic, there has been an increase in violence against women, with an 18% increase in March 2020 alone, verified through the hotline services (Leme at al, 2021, p.141).

In March 2023, the Network of Security Observatories recorded 2,423 cases of violence against women, showing that every four hours a woman was a victim of violence. This is revealed in the bulletin Elas Vivem: data that won't be silenced. This bulletin monitors seven states: BA, CE, PE, SP, RJ and, for the first time, MA and PI. Among the cases recorded, 495 are femicides. The methodology applied in this bulletin is that of daily monitoring of what circulates in the media and on social networks about violence and security, thus encompassing cases in which reports may or may not have been made to official bodies. The information collected is fed into a database which is then reviewed and consolidated.

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The study also points out that 75% of femicides are committed by former partners and that the main reasons for crimes against women are break-ups and fights.

The research also provides evidence of violence against women, indicating the existence of underreporting in relation to gender-motivated violence, with data that portrays a portion of daily events whose totality is even greater and more painful than the surveys carried out by public bodies.

According to the Ministry of Racial Equality, black women, noting that 'black women' includes black women and brown women, within the spectrum of colorism, are the ones who suffer most from psychological, physical or sexual violence, data from 2021.

Cases of psychological violence against women increased by 89%, while property violence increased by 34%, with 35% of victims earning up to 2 minimum wages (Datasenado, Brasília, 2023).

Underreporting is as much as 10 times higher than that registered as domestic violence, which creates a gap in the protection of women, and a correlation in the reliability of public protection systems in defense of women's rights (UFMG- 2023).

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5. Psychological violence and property violence

As defined by the Maria da Penha Institute, psychological violence is defined "as any conduct that causes emotional damage and diminished self-esteem, that harms and disturbs a woman's full development or that aims to degrade or control her actions, behaviors, beliefs and decisions."

Psychological violence is revealed by various actions of the aggressor to control the woman in her daily life, which cause emotional damage and deteriorate her mental health. The perpetrators of psychological violence act in a similar way in order to create a modus operandi that inhibits, deceives, isolates, manipulates, belittles and humiliates the victims.

These acts can be practiced with threats, embarrassment, humiliation, manipulation, isolation (prohibiting studying and traveling or talking to friends and relatives), constant surveillance, constant persecution, insults, blackmail, exploitation, limiting the right to come and go, ridicule, taking away freedom of belief, distorting and omitting facts to leave the woman in doubt about her memory and sanity, as exemplified by the Maria da Penha Institute.

There is a recurring practice of keeping women away from their families and social circles, so that these groups don't oppose, warn or denounce the violence.

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Furthermore, aggression helps the perpetrators, who can be spouses, parents, children, siblings, stepparents, to achieve their goals, which is to put these women in a state of psychological vulnerability.

It is worth noting that trans women and transvestites are also part of the cycle of psychological violence against women, and are protected by the Maria da Penha law. It should be noted that the aggressor can be another woman, who also uses interpersonal relationships and power relations to commit violence against her partners.

Psychological violence is mainly evidenced by disrespect for others, and can happen in various relationships, such as work, family and interpersonal relationships. But it usually happens in situations where there is an emotional bond between the parties. The partner believes they can't live without the other (Serafim, 2023).

Gaslighting, a term in English that can be translated as psychological manipulation in relationships, manipulation that can take place in different ways and to different degrees, according to the Penal Code, in its article 147-b.

The gender of the aggressor does not prevent women from suffering all forms of psychological violence that are unfortunately implicit in the social correlations of gender power

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and control of women, although the vast majority of aggressors are men, demonstrating the correlation of machismo and misogyny.

The Maria da Penha Institute defines property violence as "any conduct that constitutes the retention, subtraction, partial or total destruction of objects, work instruments, personal documents, goods, values and rights or economic resources, including those intended to satisfy their needs".

Property violence against women stems from fragility and emotional dependence, in which aggressors take advantage of personal relationships to take advantage of their victims. These relationships can be dating, marriage, stable union or just a promise of a relationship. "Violence against women always aims to control women. And one of the forms of control is to keep the partner financially dependent, so that she can't afford to leave the man," according to Judge Madgéli Frantz Machado, head of the 1st Court of Domestic and Family Violence against Women in Porto Alegre at the Rio Grande do Sul Court of Justice (TJRS).

There are cases in which the women have a profile of financial independence or a socio-economic condition capable of maintaining the luxuries and privileges of these exploiters, with elderly women being the main victims of this violence. It

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is important to note that many abuses can also be committed when the woman works for the aggressor without receiving any benefits or payments, putting aside her professional earnings in the job market to support her partner.

Victims of property violence often sell their only possessions to give to the aggressor, or the aggressor manages all their assets, and there are cases of financial control in which the woman has to give all her salary to the aggressor, who controls all her earnings and expenses (Maria da Penha Law, Art. 7, IV).

The abusive behaviors characteristic of aggressors range from financial restriction, preventing the woman from participating in decisions about her own money; destruction of personal belongings, such as valuables, or selling them; concealment of personal documents, to curb flight and the taking of property; changing bank passwords, to deprive access to financial resources; preventing work, to curb financial independence; among others (Maria da Penha Law, Art. 7, IV).

These are some of the controls that victims of property violence can suffer from their aggressors, and there is often a correlation between psychological and property damage,

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revealed by the emotional and psychological dependence between the victim and the aggressor.

Domestic violence against women has been recognized by the World Health Organization (WHO) as a public health issue, resulting negatively in the physical and emotional integrity of the victim and their safety, with “comings and goings” to health services, consequently generating an increase in public spending on health (Grossi, 1996).

Violence against women has consequences for their health, especially their mental health. Studies show that 75.3% of women who have suffered violence suffer from depression, but a more recent study (Bittar, 2017, p.451) points to various psychological symptoms resulting from domestic violence against women, such as depression, post-traumatic stress, anxiety, phobias, discouragement, irritability, panic syndrome, suicidal ideation, attempted suicide, homicide, low self-esteem, feelings of guilt, inferiority, insecurity, shame, social isolation, difficulty making decisions, extreme dependence, smoking, alcohol use, lack of concentration (Leme at al, 2021, p.143).

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6. The Maria da Penha Law

The Maria da Penha Law was created as a result of a recommendation by the Inter-American Commission on Human Rights, which found that Brazil had failed to provide judicial protection to the victim (Maria da Penha Maia Fernandes) in relation to the abuse she suffered from her husband, i.e. the various assaults and micro-aggressions inflicted by her partner, which almost took her life, leaving her paraplegic and at risk of death. (Maria da Penha Institute).

Brazil was also condemned in 2021 by the Inter-American Court of Human Rights (IACHR), in the case of the murder of Márcia Barbosa de Souza, which took place in 1988. This condemnation was handed down for the first time in an absolute manner based on the violation of gender-related human rights, with Brazil being held responsible for the difficulty in accessing justice and the lack of investigation in cases of femicide, including the discrediting of the victim in both the trial and the investigation, revealing the abusive power relations of public agents in the exercise of their functions.

In Brazil, around 4 women a day die as a result of gender crimes, a high rate that leaves Brazil in 5th place in the world for femicide, behind countries such as El Salvador, Colombia,

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Guatemala and Russia, according to the United Nations High Commissioner for Human Rights (UNHCHR). Brazil kills 48 times more women than many countries such as the United Kingdom.

The term feminicide was coined in the 1970s by South African writer and women's activist Diana Russel, who researched sexual violence committed against women and girls, studying in depth the misogynistic murders committed by men, especially their partners, and publicly defending her actions at the Crimes against Women Tribunal in Brussels (Dias et al; 2021).

Death by gender crimes against women can occur in the family, in interpersonal relationships, by illegal armed groups, at the behest of state agents or even in public spaces.

With such discrepant measures and such frightening estimates, after Brazil was condemned internationally for its failure to act in cases of domestic violence against women, what would be left for the state to do but to promote legislation that protects all women from aggression?

The Maria da Penha Law, as it is popularly known, came about with this in mind, following the international condemnations that Brazil has suffered and with repeated popular pressure. This law creates mechanisms to curb

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domestic violence against women, regardless of social class, ethnicity, sexual orientation, income, culture, educational level, age and religion, as stated in Article 3 of the law.

7. Protective measures

With the advent of Law No. 14.188/21, which defines a red light cooperation program against domestic violence, the penalty for bodily injury on the grounds of female gender and the criminal type of psychological violence against women have been altered, even amending Decree Law No. 2.484/40, known as the Penal Code.

> "Psychological violence against women. Art. 147-B. Causing emotional damage to a woman that harms her and disturbs her full development or that aims to degrade or control her actions, behaviors, beliefs and decisions, through threat, embarrassment, humiliation, manipulation, isolation, blackmail, ridicule, limitation of the right to come and go or any other means that causes damage to her psychological health and self-determination: Penalty - imprisonment, from 6 (six) months to 2 (two) years, and a fine, if the conduct does not constitute a more serious crime."

It is important to note that red light cooperation can be applied in public offices and private entities throughout the country, and that an information campaign and permanent training of professionals belonging to the program must be carried out, referring the victim to specialized care.

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Judge Alexandre Takaschima, head of the 2nd Criminal Court of the District of Lages, when commenting on the changes to the Maria da Penha Law, emphasized that "recognizing psychological violence as something that cannot be accepted as normal in relationships. I remember a woman who, in court, crying, said that the physical pain had passed, but the trauma and psychological pain she couldn't overcome."

In order to request emergency protective measures and even the criminal investigation itself, it is necessary to go to the official bodies, or through a lawyer, who will know the necessary means to file this type of protection.

The Ministry of Human Rights and Citizenship, on the federal government's website, which is available for reporting violence against women and providing nationwide assistance (call 180), makes referrals to the main agencies, including reference centers and women's shelters.

There are many protective measures against the aggressor to protect the woman from violence, some of which include seizing the aggressor's firearm or restricting him from carrying it; removing the aggressor from the home or the place where he lives with the victim; prohibiting the aggressor from going to or coming close to certain places, such as the victim's

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home or work; prohibiting the aggressor from approaching or maintaining contact with the victim, her relatives and witnesses to the aggression; restricting or suspending the aggressor's visits to his children; payment of provisional maintenance to the victim and her children or only to the latter; measures to benefit the woman; referral of the victim and her dependents to programs for the protection and care of women in situations of domestic and family violence (shelters); guaranteeing the return of the victim and her children to the home abandoned as a result of the aggression suffered, as soon as the aggressor's removal is determined; the victim's right to leave the home with her children in cases of danger or to remain there if the aggressor is removed or arrested; separation of bodies, i.e. the release of the duty to live in the same house, removing the aggressor from the home and no longer having the obligation to sleep together and have sexual relations; removal of the victim from their home, without prejudice to rights relating to property, custody of children and maintenance; return of property that the aggressor has taken from the victim; temporary prohibition on the aggressor making acts or contracts to rent or sell the property that is common to the couple; suspension of the validity of powers of attorney that the victim has given to the aggressor; payment

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of a provisional bond (guarantee) to the victim, by means of a deposit in court, for material losses due to the aggression committed; inclusion of the woman, for a certain period, in the register of assistance programs of the federal, state and municipal governments; priority access to removal, when she is a public servant of the direct or indirect administration; access to emergency contraception services, prevention of STDs and HIV/AIDS and abortion provided for by law.

Crimes of violence against women and their possible punishment will be investigated through criminal proceedings, in compliance with criminal and procedural law, in addition to the crime of non-compliance with protective measures under the law.

In cases of psychological, moral and property violence, it is difficult for victims to file a complaint, either because they are afraid of the aggressor, because of pressure from their social environment, or because it is difficult to prove the causal link, since the evidence of these types of violence is difficult to prove, which means that the protective measures provided for in the Maria da Penha Law are not requested by the victims.

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Final considerations

The study reveals that the Maria da Penha Law was a legislative breakthrough in the system of protection for women who suffer domestic violence, typifying the types of violence and establishing protective measures to safeguard the integrity of the victim against the aggressor.

However, given Brazil's patriarchal roots, domestic violence is still present and on the rise, as the recent statistics reported in the study show.

The article also points out that two types of violence against women are intertwined - psychological and property violence - and that these affect women's mental health, which can lead to depression, post-traumatic stress, anxiety, phobias, discouragement, irritability, panic syndrome, suicidal ideation, attempted suicide, homicide, low self-esteem, feelings of guilt, inferiority, insecurity, shame, social isolation, difficulty making decisions, extreme dependence, smoking, alcohol use, lack of concentration, etc.

The article also points out that there is underreporting of cases of domestic violence against women and that reporting psychological and property violence is even more difficult due to the emotional and financial dependence of the victim, as well as the construction of evidence.

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It is clear that public policies to support women who suffer violence are not implemented effectively in all cities in Brazil, especially those to welcome and offer legal and psychological advice.

In addition to building a legislative framework, it is essential to combat gender stereotypes and deconstruct patriarchal society by consolidating gender equality in order to combat, mitigate and extinguish domestic violence.

References

AGÊNCIA PATRÍCIA GALVÃO**. Dossier on Violence against Women.** 2014. São Paulo. Available at: https://dossies.agenciapatriciagalvao.org.br/violencia/violencias/violencia- domestica-e-familiar-contra-as-mulheres/. Accessed on: July 7, 2024.

BITTAR, Danielle; KOHLSDORF, Marina. **Anxiety and Depression in Women Victims of Domestic Violence**. 2017. doi: 10.7213/psicol.argum.31. 074.DS08 ISSN 0103-7013.

Article (**Undergraduate degree in Psychology from the Catholic University of Brasília (UCB).** Available at: https://periodicos.pucpr.br/psicologiaargumento/article/view/20447. Accessed on: June 28, 2024.

BRAZIL. **Constitution of the Federative Republic of Brazil**. 1988. Plateau. Available at: https://www.planalto.gov.br/ccivil_03/constituicao/constituicao.htm. Accessed on: June 26, 2024.

BRAZIL. Decree No. 1.973, of August 1, 1996. **Inter-American Convention on the Prevention, Punishment and**

DOI: https://doi.org/10.5281/zenodo.17029892

Eradication of Violence Against Women, "Convention of Belém Do Pará". Available at: https://www.cidh.org/Basicos/Portugues/m.Belem.do.Para.htm. Accessed on: June 28, 2024.

BRAZIL. **Decree-Law 2.848/40. Penal Code**. Available at: https://www.planalto.gov.br/ccivil_03/decreto-lei/del2848compilado.htm. Accessed on: July 7, 2024.

BRAZIL. **National survey on violence against women**. DataSenado Research Institute. Brasília. 2023. Available at: https://www12.senado.leg.br/institucional/datasenado/arquivos/pesquisa-nacional-de-violencia- contra-a-mulher-datasenado-2023. Accessed on: July 7, 2024.

BRAZIL. **Law n. 11.340/06**. Available at: http://www.planalto.gov.br/ccivil_03/_Ato2004-2006/2006/Lei/L11340.htm. Accessed on: June 26, 2024.

BRAZIL. **Law no. 14.188/21**. Planalto. Available at: https://www.planalto.gov.br/ccivil_03/_ato2019-2022/2021/lei/l14188.htm. Accessed on: June 26, 2024.

BRAZIL. Ministry of Health. **Health Policy Secretariat. Intrafamily violence: guidelines for service practice**. Brasília, 2001. Available at: https://bvsms.saude.gov.br/bvs/publicacoes/cd05_19.pdf. Accessed on: July 7, 2024.

BRAZIL. Ministry of Racial Equality. **Black Women Edition. Mir Monitoring and Evaluation Report No. 2**. Brasília. 2023. Available at: https://www.gov.br/igualdaderacial/pt-br/composicao/secretaria-de-gestao-do-sistema-nacional-de-promocao-da-igualdade-racial/diretoria-de-avaliacao-monitoramento-e-gestao-da-informacao/informativos/informe-edicao-mulheres-negras.pdf. Accessed on: 07 Jul. 2024.

DOI: https://doi.org/10.5281/zenodo.17029892

BRAZIL. Ministry of Human Rights and Citizenship. **Elderly people are the biggest victims of property violence.** Brasília. 2022. Available at: https://www.gov.br/mdh/pt-br/assuntos/noticias/2022/eleicoes-2022-periodo-eleitoral/pessoas-idosas-sao-maiores-vítimas- de-violencia-patrimonial-e-financeira-no-brasil. Accessed on: July 9, 2024.

BRAZIL. **Research shows high number of underreporting of domestic violence**. Federal University of Minas Gerais. 2023. Available at: https://ufmg.br/comunicacao/noticias/pesquisa-mostra-alto-indice-de-subnotificacao-de- violence-against-women-in-brazil. Accessed on: July 10, 2024.

INTER-AMERICAN COMMISSION ON HUMAN RIGHTS - CIDH. **Convention of Belém do Pará.** Brazil, June 9, 1994. Available at: https://www.cidh.org/basicos/portugues/m.belem.do.para.htm. Accessed on: June 22, 2024.

CAMPOS, Carmen Hein, **Feminist Theory of Law and Intimate Violence against Women. I International Meeting on Gender Violence Brazil Spain**. Organized by Dr. Adriana Ramos de Mello, Revista da EMERJ V. 15, N. 57 (Special Edition). 2012. Available at: http://www.emerj.tjrj.jus.br/revistaemerj_online/edicoes/revista57/revista57.pdf. Accessed on: June 20, 2024.

INTER-AMERICAN COURT OF HUMAN RIGHTS**. Judgment in the case of Barbosa de Souza et al. v. Brazil**. 2021. Available at: https://www.corteidh.or.cr/docs/casos/articulos/seriec_435_por.pdf. Accessed on: July 2, 2024.

CRUZ, Isabor**. Invisible wounds: non-physical abuse against women**. Article.2022. Legal Right. Apud Ary Susan Miller. Invisible wounds: non-physical abuse against women Translated by Denise Maria Bolanho. São Paulo: Summus,

DOI: https://doi.org/10.5281/zenodo.17029892

1999. Available at: https://juridicocerto.com/p/izaborcruz/artigos/feridas-invisiveis-abuso-nao-fisico-contra- mulheres-6098#google_vignette. Accessed on: June 27, 2024

GALVÃO, Patrícia. **Dossier on Violence against Women**. Patrícia Galvão Agency. 2014. São Paulo. Available at: https://dossies.agenciapatriciagalvao.org.br/violencia/violencias/violencia-domestica-e-familiar- contra-as-mulheres/. Accessed on: July 7, 2024.

GROSSI, Patrícia Krieger. **Violence against women: implications for health professionals**. In: LOPES, Meyer de Waldow. Gender and Health. Porto Alegre: Artes Médicas, 1996. p. 133-149.

BRAZILIAN INSTITUTE OF GEOGRAPHY AND STATISTICS-IBGE. **Violence Domestic. Statistical Yearbook. 2.6.1.1 - Records of domestic violence, by Federative Unit - 2021-2022**. 2024. Available at: https://anuario.ibge.gov.br/2023/caracteristicas-da-populacao/seguranca-publica/aeb-2023- tabelas-seguranca-publica/22094-violencia-domestica.html. Accessed on: July 2, 2024.

MARIA DA PENHA INSTITUTE-IMP. **Types of Violence**. Available at: https://www.institutomariadapenha.org.br/lei-11340/tipos-de-violencia.html. Accessed on: 06/07/2024.

LEME, Renata Salgado et al, **Direito e Saúde da Mulher, Curitiba, 2021. Ed. Juruá. P. 135- 143.**

MENEZES, Ana Luiza Teixeira. **Women: fruit of domination and fruit for liberation! In: Marlene Neves Strey et al. (Org.). Constructions and perspectives on gender.** São Leopoldo: Unisinos, 2000. p. 125-134.

UNITED NATIONS ORGANIZATION - UN**. United Nations Conference on Human Rights. Vienna Convention.** June

1993. Disponível em: https://www.oas.org/dil/port/1993%20Declara%C3%A7%C3%A3o%20e%20Programa%20de%20Ac%C3%A7%C3%A3o%20adoptado%20pela%20Confer%C3%AAncia%20Mundial%20de%20Viena%20sobre%20Direitos%20Humanos%20em%20junho%20de%201993.pdf. Accessed on: July 20, 2024.

PENHA, Maria da. **Sobrevivi... posso contar**. 2012. 2. ed. Fortaleza: Armazém da Cultura. Excerpt mentioned on the Maria da Penha Institute website. 2012. Available at: https://www.institutomariadapenha.org.br/lei-11340/tipos-de-violencia.html. Accessed on: July 7, 2024.

SOARES, Bárbara M. **Enfrentando a violência contra a mulher: Orientações práticas para profissionais e voluntários**. Brasília: Special Secretariat for Women's Policies/CESeC, Brasília**:** 2005. Center for Security and Citizenship Studies. Available at: https://cesecseguranca.com.br/textodownload/enfrentando-a-violencia-contra-a-mulher- orientacoes-praticas-para-profissionais-e-voluntariosas/. Accessed on: June 28, 2024.

NETWORK OF SECURITY OBSERVATORIES. **They live: data that won't be silenced**. Rio de Janeiro: CESeC, March 2023. Available at: https://cesecseguranca.com.br/wp-content/uploads/2023/03/Relatorio_Rede-Elas-Vivem-03_2003.pdf. Accessed July 7, 2024.

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