
A Reflection on Women Participation in Society and Law No. 11,340/2006 Enforcement in Violence Context

RAQUEL VEGGI MOREIRA

Norte Fluminense State University /UENF. Cognition and Language Mastering

CARLOS HENRIQUE MEDEIROS DE SOUZA

Norte Fluminense State University /UENF. Cognition and Language Professor Coordinator

LUCIANO DIAS DE SOUSA

Norte Fluminense State University /UENF. Cognition and Language Mastering

BRUNA MORAES MARQUES

Norte Fluminense State University /UENF. Cognition and Language Master

FABRÍCIO MORAES DE ALMEIDA

PhD in Physics (UFC), with post-doctorate in Scientific Development Regional (DCR/CNPq).

Researcher of the Doctoral Program and a Masters Degree in Regional Development and Environment (PGDRA - UNIR)

Leader of line 2 - Technology Development and Systemic - the Research Group GEITEC

Federal University of Rondonia, Brazil

Abstract:

The work in question presents a reflection on women history and the patriarchy relationship, with our discussion scope as violence against women in Maria da Penha Law context enforcement. The women role has changed in our society over the years. In different history periods, in different social organizations, we realize that women are recognized and also, undervalued. Even after Law No. 11,340/06 (Maria da Penha Law) creation, violence and prejudice continue in our society.

Keywords: Women, Law No. 11,340/06, Violence.

1. Introduction

For many centuries, our society and our culture have built an ideological discourse that defined women behavior and identity. Women and men, throughout humanity history, developed really distinct social roles. These functions and behavioral patterns vary by several factors such as: social class, labor division position, education, religious belief, and especially gender. Thus, the social relationship between men and women may vary historically, from culture to culture, as elaborated social conventions.

Since the child was born, in traditional family, s/he saw the father determining and the mother obeying. And, as the impressions we receive in first life year are indelible, because remain not only in the deepest unconscious as are printed to the body, the child tends to "naturalize" them. Thus, from birth s/he thinks it is natural that ones determines and others obey. And it is forever deep in men and women unconscious to accept an authoritarian, coercive, unequal and therefore unjust society. (MURARO, 1992 p.193-194)

The difference between genders and male supremacy resulted in centralized power in male role. It prevailed over the centuries, an ideology that man determined models of being and acting for females, resulting in shaping female identity as something not established by

themselves, but being imposed by "superior" male gender. So long, society has experienced these social principles from which women were coercively subjected.

Hermann (2008, p. 61) believes that in household space, patriarchal relations fostered women oppression, operating internally in this dimension, but reaching all the others, with intrinsic varieties and specificities to each society.

Also reinforces Hermann (2008) that:

Science also discriminated woman, at least until recently. In the Nineteenth Century, Gustave Le Bon, one of social psychology founders, said that a clever woman is something as rare as a two-headed gorilla. Charles Darwin, while acknowledging some feminine qualities such as intuition, defined them as characteristic virtues of inferior races. However, it is in woman moral that macho culture focuses more intensely discrimination cargo, creating inequality. (HERMANN, 2008, p 27).

Bourdieu (2002) sees in male domination and in the way how is superimposed and experienced, a paradoxical quintessential example. Resulting from what he calls symbolic violence, mild violence, insensible, invisible to its own victims, primarily exercised through purely symbolic communication and knowledge ways or, more precisely, the lack of information, recognition or, ultimately, of feeling.

But with time and social sphere changes, the growing lifestyle imposed by industrial capitalism, demographic, social and economic levels would be changed in different ways, decisively interfering in societies life paradigm. Women got job positions in industries and companies, as well as a new structure arose, and relationships between men and women started to assume European models, specially French and English .

One major change that affected working class, and also most other developed societies sectors, was strikingly greater role of married women in it. The change was indeed sensational. In 1940, married women living with their husbands and who worked for salaries amounted less than 14% of total USA female population. In 1980, they were more than half: the percentage almost doubled between 1950 and 1970. The fact that women have entered on labor market was not, of course, new. (HOBSBAWN, 2001, p. 304).

Realizing their condition posed by male oppression, women become aware of their possibilities and initiate a fight for a social space conquest and identity redefining construction. The feminine posture will be changed, initially, due to women social roles and functions changing. For many, women working outside home universe would cause family structure destruction, since the woman working all days out would leave house without due care and children would not receive the necessary education, however women were claiming changes and would not return to their old social roles. Within these changes a movement arises, manifested in practice and in different discourses, which would result in paradigms release on which women were imprisoned, titled as feminism.

Organized feminism occurs in 1848, in New York. American feminists participated in an extensive fight in defense of women's rights to education, work and political participation, culminating in 1920 with the vote right conquest. Moreover, mass social movements explicitly female arose only from the 60s, coming from social movements both by their participants related to human rights, as by their revolutionary tendencies in favor of counterculture. This organization framework, not only ideological but also practical, was responsible for the most significant changes that have already occurred in the new formatting of society women, reflecting in various industries performing, including the economy and politics.

Violence against women has become, significantly, reported to society in the early 80s,

a period that coincided with the democratic era advent in Brazilian society. On this track, (IZUMINO, 2004, p. 77) states that "this period presented as one of its features the increased female participation in productive sector, besides intense female participation in social movements fighting for better living conditions."

In the early Nineteenth Century, Brazilian women, mostly, lived trapped in ancient prejudices and within a rigid cultural poverty. With education increase among them, a major attitude change settled in society and more women began to participate actively in business, education and family, developing and revealing their own potentials. In this sense, a new scenario would change, and hence, result in new attitudes related to work, male figure, sex, marriage, divorce.

Women in order to move beyond their old roles, encounter new, come in a context where competition dominates, succeed would be related to dare, develop their competence, assume a leadership position, gain power. However, this new social setting still keeps revealing data about society sexist ideology, where prejudice, difference and violence prevail. The patriarchy power is veiled in as data revealing a significant difference between wages and the positions they have in the work, and also, the physical attacks and deaths number involving women.

According to Del Priore (2013), women in the twenty-first century are made of ruptures and stays. Ruptures propel them forward and help expand all the possibilities, and to empower themselves to conquer their proper spaces. The stays, on the other hand, show weaknesses. Created in a patriarchal and sexist world, they fail to see themselves out of male focus. Live by man gaze, by the "other". They want real and dream, holding hands. There are several women in one. Look for her own face among many others is the challenge. But the ultimate challenge is to show that they can have one face.

Modern society still carries old prejudice forms sustained by differences between men and women / black and white, besides also treating lesbians and gays with differences. These differences or prejudice are expressed in various violence forms in the social sphere.

Although women have achieved rights, respect and "recognition", even having a higher education degree, they still earn less in labor market, generating wage inequality. Those who only take care of housework, looking after the house, children or sick relatives are seen as if they did not develop any work activity.

Few women have decision spaces in society and mother and housewife role are seen as a liability, as the only space reserved for women. Trapped in old moral values, they suffer violence within and outside home.

2. Woman in Violence Context

Domestic and family violence against women is a grave and serious problem in Brazil. Some women know they are exposed to violence and often are blamed for the attacks they suffer. Exemplary way, when a woman is raped, questions always appear as: "What clothes were you wearing? What time was it? ". Questions that seem to seek a justification in an attempt to shift the blame to the victim.

In a way, these questions only appear when women report. Considering that the fear, shame, submission feeling, economic dependence, lack of credibility with justice, the lack of support combined with a belief that it is natural to submit and accept such embarrassing situation make them suffer in silence. Many have guilt feeling, because society sees violence and turns victim woman in guilty. In contrast, the man who attacks a woman always lurks in

banal justifications and clumsy reasons. Thus, we conclude that man mugs because it is a way to enforce a supposed authority over women, setting up in a macho and without character attitude.

It is amazing the number of women who are violence victims from their husbands, suffering from humiliation, moral harassment to physical attack. Domestic and family violence against women is an affront to human rights and is one of the most serious problems in our society.

In Applied Economic Research Institute (IPEA) research, on 09/19/13, it is estimated that between 2009 and 2011, Brazil recorded 16,900 "femicides", or "female deaths by gender conflict", especially in cases of physical violence by intimate partners. This number indicates a rate of 5.8 cases per 100 thousand women. According to the document data, Espírito Santo is the Brazilian state with the highest rate of "femicides", 11.24 per 100 thousand, followed by Bahia (9.08) and Alagoas (8.84). The region with the "worst" rate is the Northeast, which had 6.9 cases per 100,000 women in the study period.

Beyond the "femicide" numbers and rates in Brazilian states and regions, the research conducted an impact assessment of Maria da Penha Law. It was checked that no influence was able to reduce deaths number, because the rates have remained at the same level before and after the new law enactment.

Women who prove violence suffer a series of health problems, and their ability to participate in public life decreases. Violence against women harms families and communities of all generations and mighty other violence types prevalent in society. The most ordinary violence form known by women around the world is physical violence by an intimate partner, in which women are beaten, forced to have sex or otherwise abused.

According to 2013 Balance from Women Central Assistance - Dial 180, a service provided by Women Policies Secretariat of Republic Presidency (SPM-PR), points out that the responsible for the reported attacks are in 81% of cases, people who have or have had affective bond with the victims. A fall in total connections was observed in 2013, for lack of a strong campaign and system failure to meet the demand. Of the total 106,860 referrals to the service network, 62% were directed to security and justice system.

The justice inefficiency and treatment type offered to victims before the impact of Law No. 11,340 (Maria da Penha Law) were factors that really contributed to the lack of attention to private violence and its consequent decriminalization. The society still maintains the sexist thinking, predominating men's control over women and is a result of this domination that women need special laws and agencies to protect them, since, constrained by fear and shame, they do not easily expose themselves to state and justice.

Despite violent acts are widespread in everyday society, we should not admit that these problems remain being considered "normal" phenomena. The fact that these events are loaded with high affectivity and their occurrence is present in society "common sense" as something connected to customs and unimportant, what inhibits justice action, which can not interfere in order to solve the problem .

Discourse on women is to separate into two stereotypes of fundamental importance in modern world, Juliet romantic side; from poetic creations, and many others that delighted her in prose and verse. Similarly, it is imperative to note woman by the side of their participation in society, conquering space and helping to build a world without discrimination, where men and women are complementary searching for a more just society. In this sense, the woman should follow both paths, the one of being female, wife, mother and the one of social, economic and political participation. A participatory woman, hardworking and who wants to contribute

to times development, as a human being who thinks, have strengths and should be useful to society and, of course, respected.

Therefore, one can no longer think of a submissive woman, but she has to leave for equal participation in the social as in economic context, given that her equally performance increasingly materializes. The woman awareness as a being who should act with equality to men, only materializes effectively when she has her gender independence as not thinking of a married life as an investment or slave.

3. Maria Da Penha Law (Law No. 11,340/06) In Female Violence Context

Brazil experienced until the 1990s, the idea that nobody should make any kind of differentiation regarding violence. There was a consolidated judgment that the violence exercised against child, elderly or against women, for example, should be treated the same as any other kind.

However, with time course and the need to protect certain groups that were more afflicted by abuse and neglect, it began in Brazilian legalistic system the called violence specialization.

This path was originally covered with Law 8,069/90 enactment, that protected children and adolescents in violence practice and abuse.

Consequently, there was the edition of numerous laws such as Law 8,078/90 protecting the consumer against trade abuses; Law 9,099/95 which particularized by its turn the lower potential offensive violence and the Law 9,503/97 that individualized traffic violence, removing this offense type treatment from common field.

It should be noted that these specializations denote generic treatment failure, being required adequate and specific treatment for certain offender types. Therefore, it is necessary to observe that Law 11,340/06, called "Maria da Penha Law", is also a specialization kind way. It is not, moreover, an essentially criminal law, but a multidisciplinary, which converges in its articles provisions of civil, civil procedure, labor and social security nature.

This law is in effect since September 22, 2006. In honor of a woman that is a symbolic domestic violence victim, who made of pain breath for activism, coming with a mission to provide suitable tools to face a problema that agonizes a large proportion of women in Brazil and the world, which is gender violence.

Maria da Penha Maia was a milestone to history: warrior woman, 60 years, mother of three daughters. In 1983, her ex-husband, a university professor, tried to kill her twice. Once with shots and other, there was an attempt eletrocutamento. Hermann (2008, p. 18) says that "the attacks marks and sequelae not only reached her spirit. They irreversibly marked the integrity of her vital functions: Penha became quadriplegic."

Thereafter, Penha started to fight for a more active protection to domestic violence victims, representing so many other Marias. Her battle culminated in her "executor" conviction to eight years in prison.

According to Dias (2010), until Maria da Penha Law advent, domestic violence never received due attention, from society, nor from legislature, much less from judiciary. The sacralized idea and home inviolability always served as a pretext to block any attempt to contain what was happening behind closed doors. As they were situations that occurred inside home, no one interfered. To further aggravate the situation, a large number of women whose in thought there is entrenched the idea that they should be submissive to husband.

Basically, this law that protects abused woman is scoped in four guarantees, which are:

Prevent and restrain domestic and family violence against women; Domestic and family violence against women Special Courts establishment; assistance measures establishment; protective measures establishment.

Notwithstanding the law have revolutionized violence treatment imposed on women, the discussion crucial point related to it is exactly its supposed unconstitutionality. Much is said that it honors only a society portion, leaving the violence victim man at mercy of any treatment or nurturance by the Government.

Heated discussions do not end when the issue is law adequacy in national legal system. In this discussion emerge the so-called affirmative actions.

It is known that Brazil Federative Republic Constitution (CRFB/88) determined in its text passages the formal equality (through the law) of men and women. According to the law, one must give equal treatment to both genders, without any privilege. However, what is seen in the facts terms is that man is much more prestigious than women. It is the man who occupies, in most cases, more important positions in social environment, and consequently, paid on higher ground.

In this aspect to match men and women is that affirmative actions, special and determined measures are essential with the scope of bringing to facts plans the equality embodied by the law, but by numerous factors it is not achieved. Thus it ensures equal opportunities and treatment, somewhat compensating the disparity that still insists on existing.

On "STF News", the Supreme Court web page, on April 26, 2012, Joaquim Barbosa defines affirmative actions as public politics aimed at material equality constitutional principle realization and racial, gender, age, national origin and physique perverse implications neutralization. Equality is no longer simply a legal principle to be respected by all, and becomes a constitutional objective to be reached by the State and society.¹

Law 11,430/06 is the embodiment of the said treat the equals equally, and the different differently. It recognizes, categorically, that in the world where the unequal everyday conditions establish differences between men and women, it must have disparate treatment between them, so that they correspond to the advantages. In this factual and historical context it is pressing the need for affirmative actions or positive discriminations translated into public politics aimed to materially achieve this equality.

The customs heritage, where women occupied a secondary and supporting place can not keep present and there is no argument to justify it. Accordingly, Law 11,340/06 is steady in this regard, to be an affirmative action in order to match both men and women.

The law is still very important as it does not only protects from physical violence, but all sorts of it. It does not forget that physical violence is a drastic form of women's rights violation, however the psychological, financial and sexual violence appear as an ominous face of this same practice.

And all violence kinds are covered by the law that make of it a landmark and an effusive victory of women who for years were victims of every kind of their rights violation. It is notorious that women always suffered quietly, without any kind of protection from Government when victimized by maltreatment, abuse and violence.

Nevertheless all improvements translated in the law text, it still shows noticeable that it is not absolutely effective. Violence victims women often do not want to report the offender, fearing for their own life or for shame of being exposed as injured. As stated (Hermann, 2008):

¹ (<http://www.stf.jus.br/portal/cms/verNoticiaDetalhe.asp?idConteudo-206023>)

Despite privileged repressive criminal tonic, the law did not stimulate the input of battered women to the public security system: According to field research, only 40% of women who admit to have suffered some form of domestic violence made occurrence in police stations, even after Maria da Penha Law effectivity. (HERMANN, 2008, p. 78th)

Prejudice still rooted in society and the lack of social conditions become major obstacles to the complete, dense and precise law efetivation. The law with its fossilized words does not benefit to anyone. Unfortunately this is what has occurred in battered woman everyday family.

What shows precious and essential in this context, is the ideas, actions and objectives grouping, with the aim of bringing to reality the textual situation not yet effective. This is the great challenge that the Law 11,340/06 goes through every day, every time a woman is attacked.

The laws edition aimed to combat such kind of violence was a great importance step given by the government. However, it is imperative to check the needed effect of theses invigorating principles, so that fundamental rights established in the Federal Constitution are truly covered and revered regarding to women.

4 . Final Considerations

It is known that Maria da Penha Law symbolizes a significant triumph for society, as well as a clear progress on legal order, considering that it chances the return given by State gives to domestic and family violence against women, explaining contempt and inflexibility to any kind of violence. Maria da Penha Law is a great success for all women. It is an important, broad, which is against any kind of violence with the woman, besides breaking with traditional prototypes of Law.

Law No. 11,340 still consists on a very important tool in combating domestic and family violence, representing progresses concerning the women treatment, and the most significant was the creation of Domestic and Family Violence against Women Special Courts (JVDFM). Brazilian people recognize it as a very useful tool in order to confront violence, however depends on investments and resources for the rights embodied by the law to be brought to the factual plan.

The difficulty in precisising information and quantifying domestic violence against women reveals the distinctive aspect of this phenomenon that is not expressed in numbers, once the fear, shame and family protection inhibit its expression and, therefore, its knowledge. Nevertheless, it is shown by disruption of values and roles imposed on men and women by society, which demonstrates its distinctive character when analyzed with other institutional violence.

Feminist movements left to the streets to denounce violence and also to propose policies for governments. Without this battle, the situation would be even worse. For women leave the violent situation, they must be supported to build autonomy and rescue their own love.

Its necessary to have work conditions valorizaton and respect and that there are public policies that allow women to work outside home, for example, full-time kindergartens and nursery schools for their children, avoiding to overload their working time.

To require continue education for public service professionals, including police authorities, in order to not having in their actions the violence "performance" and thus, work preventively. To have in schools and universities an education that combats obsolete prejudice

against women, racism and homophobia in an attempt to build a world where difference and diversity are respected.

REFERENCES

- BOURDIEU, Pierre. The male domination. Rio de Janeiro: Bertrand Brasil, 2002.
- BUTLER, Judith. Gender problems: feminism and identity subversion. Rio de Janeiro: Civilização Brasileira Editor, 2013.
- DIAS, Maria Berenice. Maria da Penha Law on justice: Law 11,340/06 effectiveness to combat domestic violence against women. São Paulo: Revista dos Tribunais Editor, 2010.
- HOBSBAWN, ERIC. Extremes Age: the short twentieth century: 1914 – 1991. São Paulo: Companhia das Letras, 2001.
- FRANZ, Marie-Louise Von. The feminine in fairy tales. Rio de Janeiro: Vozes Editor, 2010.
- HERMANN, Leda Maria. Maria da Penha Law with woman`s name. Campinas: Servanda Editora, 2008.
- IBGE – Geography and Statistics Brazilian Institute. 2010 Census: women are more educated than men and increase occupancy level. Available in: <http://censo2010.ibge.gov.br/noticias-censo?censo-2010-mulheres-sao-mais-instruidas-que-homens-ampliam-nivel-ocupacao>. Accessed on July 15, 2014.
- IPEA – Applied Economic Research Institute. Research on violence against women. Available in: www.ipea.gov.br/portal/index.php?option=com=article&id=19873. Accessed on July 15, 2014.
- IZUMINO, Wânia Pasinato. Justice and violence against women. São Paulo: Annablume Editor, 2004.
- Law nº 11,340 – Republic Presidency. Available in: http://www.planalto.gov.br/ccivil_03/_ato2004-2006/2006/lei/11340.htm. Accessed on April 15, 2014.
- MURARO, Rose Marie. The woman in the third millennium: a woman history through the ages and its prospects for the future. Rio de Janeiro: Rosas dos Tempo Editor, 1992.
- PERROT, Michelle. Public women. São Paulo: UNESP Editor, 1998. Record, 2004.
- PRIORE, Mary Del. (Org.) Stories and Woman Conversations. São Paulo: Editora Planeta, 2013.
- PRIORE, Mary Del. Intimate stories: sexuality and eroticism in Brazil history. São Paulo: Planeta do Brasil Editor, 2011.
- STF – Supremo Tribunal Federal. STF News. Available in: www.stf.jus.br/portal/cms/verNoticiaDetalhe.asp?idConteudo=206023. Accessed on July 24, 2014.