

The dignity of the human person and the protection of women with breast cancer: legal responses to abandonment and violence during the course of the disease.

Human dignity and the protection of women with breast cancer: legal responses to abandonment and violence during the pathology

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ABSTRACT: This article analyzes the legal protection of women with malignant breast neoplasms in the face of...

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of the cancer patient, transforming the legal norm into indirect clinical support for public health.

Keywords: Breast cancer. Domestic violence. Emotional abandonment. Fundamental rights.

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ABSTRACT: The article analyzes the legal protection of women with malignant breast neoplasia

using a hypothetical-deductive method, with a qualitative approach and bibliographic and

documentary research techniques. The analysis is anchored in a review of recent scientific literature

and the interpretation of Brazilian legal provisions — from the Federal Constitution and the Maria da

Penha Law to civil liability norms. The clinical vignette technique (an illustrative case study) is also

used to contextualize the practical application of the concepts, while respecting the ethical precepts

of anonymity and integrity. The study connects the "sword function" of fundamental rights to the

patient's immunological resilience. It identifies that the psychosocial stress resulting from

abandonment acts as a predictor of tumor recurrence, requiring the legal system to operate as a mechanism of legal biosafety. It concludes that mandatory medical notification and civil liability for abandonment during serious illness are indispensable instruments to guarantee the dignity and survival of oncological patients, transmuting legal norms into indirect clinical support for public health.

Keywords: Breast cancer. Domestic violence. Affective abandonment. Fundamental rights. Legal biosafety.

ABSTRACT: The article analyzes the legal protection of women with malignant breast neoplasia facing emotional abandonment and domestic violence. To respond to this problem, adopt the hypothetical-deductive method, with a qualitative approach and bibliographical research technique and documentary. The analysis is based on the review of recent scientific literature and on the interpretation of the provisions of the Brazilian legal system — from the Federal Constitution and the Law Maria da Penha applies civil liability standards. The viñeta technique is also used clinic (illustrative case study) to contextualize the practical application of concepts, respecting the ethical precepts of anonymity and integrity. The studio connects the "sword function" of the fundamental rights of the patient's immunological resilience. If you identify that you are stressed psychosocial outcome derived from helplessness acts as a predictor of tumor recurrence, which requires that it legal system acts as a legal biosecurity mechanism. If you conclude that there Compulsory medical notification and civil liability for abandonment in a serious illness indispensable instruments to guarantee the dignity and survival of the oncology patient, transforming the legal norm into indirect clinical support for public health.

Keywords: breast cancer. Domestic violence. Affective abandonment. Rights fundamentals. Legal biosecurity.

1. INTRODUCTION

Breast cancer represents, in contemporary times, the pathology with the greatest impact on health. global female mortality is a concern not only due to its high incidence and mortality rates, but also because of its profound... repercussions on women's identity and subjectivity. In Brazil, the scenario demands what is... It has become conventional to call this the "emerging perspective," in which biological healing cannot be dissociated from Legal protection. The epidemiological severity of this condition justifies the urgency of this protection. since breast cancer has become a significant human and economic challenge. globally, driven by changes in reproductive patterns and urban lifestyles, reaching

figures exceeding 1.6 million new cases annually (RICCI; AMBRÓSIO, 2019).

The most recent international scientific literature corroborates that breast cancer imposes substantial psychological challenges, especially for young and middle-aged women, who exhibit higher recurrence rates and lower survival rates when accompanied by depressive symptoms (LI et al., 2025). These symptoms directly influence the results of treatment and quality of life, making early identification of risks—such as low support—beneficial. Family — an imperative not only for medical reasons, but also for social and legal protection.

However, breast cancer analysis cannot be strictly biological. There is a "delay" "cultural" in addressing the violence surrounding the diagnosis. According to anthropology According to Clifford Geertz's (1989) interpretation, the cultural dimensions of a society tend to be more... Resistant to change are their economic or political structures, which explains their persistence. of ideologies of submission and stigma, even in the face of scientific advances in medicine. This Difficulty in dealing with "half-formulated notions" about female submission makes women with Cancer is a prime victim of neglect and abuse.

The vulnerability of cancer patients is exacerbated when the home environment, which It should be a place of refuge, but it becomes a stage for violence. From Rodriguez's (2024) perspective, the Law in democratic regimes must be sensitive to moral and social disputes, not limited to A cold, technical approach, but one that responds to the concrete needs of vulnerable groups. In this sense, The "dispute" lies in ensuring the right to a dignified life against the neglect of assistance and the culture of... Violence. The central problem of this research focuses on women who, when facing mastectomy, experience violence. and due to the effects of chemotherapy, she finds herself deprived of emotional support and financial resources from others. of partners who practice emotional abandonment or financial abuse.

To address this problem, the present study adopts the hypothetical-deductive method. with a qualitative approach and bibliographic and documentary research techniques. The analysis is based on Review of recent scientific literature and interpretation of legal provisions. Brazilian law — from the Federal Constitution and the Maria da Penha Law to the rules of civil liability — which serve as a shield for violated dignity. Additionally, the clinical vignette technique is used. (illustrative case study) to contextualize the practical application of the concepts discussed, respecting the ethical principles of anonymity and integrity.



2. THEORETICAL FRAMEWORK

2.1 Constitutional Foundations and the Dignity of Sick Women

The protection of women with breast cancer is not a mere concession, but an imperative of article [relevant article number]. Article 1, item III, of the 1988 Federal Constitution (CF/88). The Magna Carta consolidated the dignity of the human person as the foundation of the Republic; however, practice reveals a persistent gap. According to Neves and Rocha (2025, p. 265), there is a democratic deficit in the realization of social rights in Brazil, and to remedy this situation, the Constitution seeks to promote a broad catalog of guarantees to the population. For the cancer patient, this deficit manifests itself tragically when the home environment becomes hostile. The right to health, provided for in Article 196 of the 1988 Constitution, must be interpreted broadly: it encompasses not only access to chemotherapy, but also to guaranteeing a violence-free environment for full recovery.

In this context, the patient's dignity is intrinsically linked to her support network. Dyadic qualitative studies (DUAN et al., 2025) reveal that post-traumatic growth — the positive psychological change after diagnosis — depends directly on personal empowerment and effective support systems. Conversely, family alienation and psychological pressure. These constitute insurmountable obstacles to this development. Therefore, the Constitutional Right to Health should be understood from the perspective of the bioethics of care, in which the State intervenes to ensure that family support should not be replaced by aggression or neglect.

Contemporary constitutional doctrine, notably through the teachings of Ingo Wolfgang Sarlet (2023) reinforces that dignity cannot be an empty promise. For women for those who have undergone a mastectomy, the "minimum subsistence level" encompasses not only access to medication, but also the right to a family environment that does not compromise their psychological integrity. When the State fails in protecting this woman from abandonment during treatment, a double victimization occurs: biological (due to the illness) and institutional, due to the lack of immediate legal protection of their rights. Basic necessities for dignified survival. The intersection between immunology and Constitutional Law reveals that the protection of human dignity has a tangible biological dimension. As Ricci points out and Ambrósio (2019), the affective and social environment is crucial for the acceptance of the pathology and for the adherence to treatment.

From Rodriguez's (2024) perspective, Law should be understood as a tool sensitive to the specific needs of groups in situations of extreme vulnerability. In the case of cancer patients, the constitutional "minimum subsistence level" transcends the financial sphere, encompassing the necessary mental integrity for the organism to respond to cytostatic therapies.



Chronic stress resulting from family neglect acts as an immunosuppressant; therefore, guardianship
A jurisdictional act that guarantees domestic peace is not merely a legal act, but also a form of support.
Indirect clinical considerations relate to the biological resilience of women. The dignity of the human person thus functions...
as the "overarching principle" that guides the interpretation of all sub-constitutional norms,
preventing the patient from being treated as an "object" of emotional disposal due to the alteration.
of their body image or their temporary work capacity.

Analyzing dignity in the oncological context requires moving beyond a rights-based perspective.
fundamental as mere limits to the State. From the perspective of the biopolitics of healing, protection
The legal system acts as a social determinant of health. As Rodriguez (2024) teaches, the law must
to be sensitive to concrete disputes, which, in the case of the mastectomy patient, implies the need
of a "legal immunotherapy". Chronic stress resulting from domestic violence raises the levels
of cortisol, which has been shown to inhibit the response of T cells in the immune system. Therefore,
The judicial decision that protects domestic peace is an extension of the medical act, because, according to
As Ricci and Ambrósio (2019) point out, an inappropriate affective environment is a direct predictor of problems.
Psychological factors that hinder therapeutic adherence and compromise survival.

In this vulnerable scenario, the inability of the partner or family to recognize the
The otherness of the sick woman points to a deficient ethical state. Regarding this impossibility of
Regarding recognition and its bioethical impact, they teach:

The omnipotence of thought, resulting from the inability to recognize the other, characterizes the
persistence in the narcissistic state and in object relations, which impedes bioethical development.
Elaboration on this state is necessary, but not sufficient for bioethical thought, since the lack of the
possibility of thinking, which we consider representative of the death drive, is also unethical (Cohen
and Oliveira, 2020, p. 338).

This "omnipotence of thought" is reflected in the aggressor, who is unable to process the new
The physical reality of his mastectomized partner projects his narcissistic frustration onto her through...
abandonment. The law, therefore, must intervene to "force" the recognition of otherness through
of civil and alimony liability, preventing the partner's selfishness from resulting in social death.
or the patient's physical condition.

2.2 The phenomenon of violence and the intersection of Medicine and Law

In mesological clinical practice, it is observed that physical fragility facilitates subjugation.
Psychological violence manifests itself in contempt for the mutilated body, while patrimonial violence...
This often occurs through the partner appropriating the disability benefits.

Vulnerability is compounded by fear of cancer recurrence (MRC), a multifaceted phenomenon, which presents high levels among patients with low social support and low income (LI et al., 2024). The abusive partner takes advantage of this fear and financial dependence to keep the patient in a state of compulsion. treatment-related anxiety (ART), which compromises adherence to cancer therapies. and women's holistic health.

The complexity of care requires a network that often fails in its affective pillar. as they describe it well:

Currently, the approach to breast cancer is centered on the mastologist [...] This professional initiates the initial care and then establishes the patient's joint treatment with the clinical oncologist, the plastic surgeon, and the radiotherapist [...] In order for the patient to be assisted in the best way at this time, avoiding current and future physical and psychological sequelae, other professionals may be involved (Ricci and Ambrósio, 2019, p. 45).

Regarding the need for a situated view of social conflicts, Rodriguez (2024) reinforces the importance of a scientific model that studies facts and norms simultaneously, without reducing the The right to a technicality. Medical experience reveals that abandonment compromises the prognosis. Ricci and Ambrósio (2019, p. 46) emphasize that patients in inappropriate affective and social environments They will present higher rates of psychological problems, which will make adherence to treatment more difficult. and acceptance of the illness.

Brazilian regional culture directly influences the perception of violence. In regions with Due to the large migratory flow, it is common to treat patients who bear the marks of violence. normalized over decades. Situations like this highlight the fragility imposed by Cancer is often the catalyst for the exacerbation of domestic violence, and the patient may... to present a history of continuous assaults, multiple fractures, and the need for displacement. Interstate travel as a survival strategy, even if it means breaking ties. families due to cultural reasons.

It is essential that lawyers and public defenders are also taken into consideration. "Oncology support professionals." Treatment requires rebuilding the legal security of A woman who fears the interruption of her health insurance coverage or the misappropriation of her funds. Emotional neglect is a real clinical risk factor. When family support is lacking... If the condition collapses, the prognosis becomes dependent on factors external to medical intervention. Therefore, the The legal system is called upon to transform itself into a concrete instrument for safeguarding... life, imposing limits on the abuse of rights.

The vulnerability of women with breast cancer should be addressed from the perspective of crises. contemporary. According to Morais and Sá (2024), global economic regression acts as a

structural problem. In regions far from major centers, the scarcity of resources prevents the
A woman breaks the cycle of violence. This precarious situation generates a "hunger for rights," in which the
The normalization of abandonment becomes a tragic survival strategy in the face of impossibility.
Material needed to seek legal assistance or to maintain basic subsistence.

2.3 Judicial measures and protection mechanisms: the law as a shield

The difficulty of accessing fundamental rights relates to what Castro and Paplowski (2022)
They define it as the persistence of the coloniality of being. For many women who suffer the marks of
Oncological "mutilation," the world-system still views them through the lens of invisibility. There is a gap
between "law on paper" and "lived law," inhabiting a zone where the ill patient is
stripped of her agency. This logic explains why violence against sick women is
often neglected. The fight for legal protection is, therefore, an act of decolonization of
The law itself requires the State to recognize the full humanity of marginalized people.
during illness.

The legal system offers strong responses. Law No. 11.340/2006 (Maria da Penha Law)
allows for the removal of the aggressor, while in the civil sphere, actions for alimony (article 1,694 of the
The Civil Code and the thesis of civil liability for emotional abandonment are fundamental. The priority
Procedural fairness is guaranteed by Law No. 12.008/2009. As Ribeiro (2022) points out, good faith and the duty of
Cooperation should guide procedural conduct. In this scenario, the transition to a State
Constitutional law, according to Maria João Antunes (2020), redefines the role of law: the law must be
to subordinate to the autonomy of fundamental rights, with the magistrate acting as protector of
dignity, even in the face of legislative omissions.

The "sword function" of fundamental rights, as proposed by Antunes (2020), takes on new forms
Dramatic situations in oncology. It's not just about punishment, but about guaranteeing the integrity of legal rights.
of the victim. This protection must prevent the "prohibition of insufficiency" (Untermassverbot), that is, a
State protection that is not deficient. Oncological vulnerability creates an asymmetry in which the
The woman, weakened by the toxicity of the treatment, lacks the psychic energy for litigation. Here, the
Intervention should be proactive, ensuring that the patient's assets are not compromised.
used by the aggressor.

When the Judiciary is slow to grant protective measures or provisional alimony, it allows
that biological urgency is superseded by material insecurity. Civil Law, in recognizing the
Moral damages inherent in the act of abandonment during a serious illness act to preserve the...
Dignity. Supportive interventions, such as laughter therapy, demonstrate that mood improvement...

It reduces fatigue (QU et al., 2025); if the aggressor prevents this access, he violates the duty of mutual assistance.

Spinelli (2020) points out that access to civil protection is still restricted, which harms justice as a whole.

In short, the compensation should be based on the patient's survival, disregarding procedural delays.

which disregards the urgency of the pathology.

The relationship between law and the protection of life takes on both punitive and civil legitimacy, in the name of safeguarding inalienable assets. The data is alarming: anxiety affects up to 23% and...

Depression affects 58% of patients. If the law ignores violence, it becomes complicit in its worsening.

Clinical factors lead to lower adherence to treatment and higher relapse rates. Protection against

The aggressor is a measure of cancer prevention. The State's omission in offering swift protection

This constitutes a direct violation of the constitutional mandate for protection.

Therefore, the conduct of the parties must be analyzed in the light of objective good faith (RIBEIRO, 2022).

In cases of chronic violence exacerbated by cancer, compensation for moral damages constitutes a

A corrective justice measure to restore autonomy. The Judiciary, in recognizing the impact

Regarding these aggressions on the biological response, it reinforces that protection against abandonment is not a

It is not a political choice, but an ethical and legal imperative that guarantees the patient the right to fight for her life.

with the dignity that the constitutional text assures him.

2.4 Draft laws and the role of the reporting physician

Contemporary legislative advancements seek to classify crimes against [criminals] in a more severe manner.

women undergoing treatment for serious illnesses, recognizing that the illness exacerbates the

vulnerability. Law No. 10.778/2003 establishes the mandatory reporting of

evidence of violence on the part of the doctor, transforming the mastologist into a strategic agent in

Protection of human rights. This medical practice goes beyond simply filling out forms;

It involves personalized communication about the risks and providing support to the patient. According to

Lambert-Côté et al. (2025) found that satisfaction with the information received reduces psychological distress.

allowing the physician to act in the primary prevention of psychological damage that could become

permanent in a context of aggression.

The relevance of early legal intervention is corroborated by longitudinal studies on

Depressive symptoms in cancer patients. Chen et al. (2025) demonstrate that the environment

Family history is the determining factor in whether the post-surgical trajectory leads to recovery or not.

worsening. When the environment is hostile, a negative fluctuation of symptoms occurs, which requires

that the physician, upon detecting such signs, immediately activate the protection mechanisms provided for in

Maria da Penha Law. This ethical conduct is reinforced by the principle of objective good faith, which imposes on...



Spouses have a duty of mutual assistance as an inalienable obligation. "Abuse of right" manifests itself... This occurs when a partner uses a woman's physical vulnerability to isolate her or squander her assets. As Ribeiro (2022, p. 61) states, the conduct of the parties should be guided by cooperation, which It prevents obstruction of access to the means necessary for healing.

Compensation for moral and material damages should be guided by this duty of assistance. transforming reparations into a means of sustaining survival. Restricting access to Civil guardianship, denounced by Spinelli (2020, p. 62), is even more burdensome for women with cancer. mammary, since the timeframe of civil proceedings often ignores the biological urgency imposed by pathology. Legal protection should also consider the "fear of cancer recurrence" (MRC). Research by Li et al. (2024) indicates that social support and economic stability are the main factors. Factors that mitigate this anxiety include emotional abandonment and financial abuse. catalysts of fear; therefore, the granting of protective measures and the determination of alimony. Provisional measures are, in fact, public health interventions.

The theory of emotional abandonment takes on new dimensions in light of a cancer diagnosis. The breakdown of cohabitation at a time of greatest vulnerability constitutes what doctrine classifies as a "ethical-legal offense" (COHEN; OLIVEIRA, 2020). Brazilian jurisprudence has recognized that The lack of support in situations of serious illness generates moral damages in re ipsa, that is, presumed. The suffering imposed by forced isolation violated the patient's right to health. In this context, the negligent partner's conduct must be analyzed from the perspective of civil liability. objective, with a multifaceted function: compensatory for the victim and punitive-pedagogical for the offender, which signals that the legal system does not tolerate the discarding of human beings.

In addition to emotional neglect, the patient frequently faces "financial abuse." "Silent." The interruption of the therapeutic schedule, resulting from a restriction of controlled resources. By the aggressor, it constitutes a direct attack against life. As Maria João Antunes teaches. (2020, p. 31), the law must be subordinate to the Constitution to guarantee the dignity of the human person. that it not be violated. The joint action of the Judiciary and the physician thus constitutes a "biosecurity". legal", ensuring that the patient is not doubly victimized: by the biology of the disease and by the ethical failure of its support core (NEVES; ROCHA, 2025). This integration between notification compulsory measures and the granting of provisional remedies provide the necessary stability for the The organism responds to clinical stimuli.

The transition from physician to protective agent requires recognizing that diagnosis is not... It occurs in a vacuum. As Cohen and Oliveira (2020) point out, the inability to recognize otherness The other patient's behavior hinders bioethical development, generating "object relations" that culminate in abandonment. The materialization of "legal biosecurity" depends on this symbiosis: notification by



The mastologist acts as the trigger for a protective network that shields the woman. This guardianship ensures that the "treatment time," counted in chemotherapy cycles, is respected by a Justice that understands the fragility of the mastectomized body.

Finally, oncological vulnerability cannot be dissociated from structural crises. contemporary. According to Morais and Sá (2024), global economic regression acts as an aggravating factor. And in areas with complex vulnerabilities, precarious conditions prevent people from seeking legal assistance. A "paralysis" or normalization of violence emerges, in which survival is stifled by it. The material inability to break free from abusive structures. This difficulty relates to the "coloniality of being." (CASTRO; PAPLOWSKI, 2022), which classifies individuals into distinct levels of value, pushing The mastectomized woman is relegated to a "zone of non-being." The struggle for judicial protection is, therefore, an act of decolonizing the law. It is necessary to ensure that the "decolonial gaze" reaches the margins. preventing the "hunger for rights" from worsening the medical diagnosis and transforming dignity into a concrete biosecurity tool against social regression.

FINAL CONSIDERATIONS

The analysis developed demonstrates that breast cancer treatment requires a network. Robust legal framework. The dignity of women cannot be fragmented: physical integrity depends on... Legal and emotional security, with the law being the necessary shield when family support fails. It breaks down. Comprehensive protection requires overcoming cultural setbacks that normalize violence. The theoretical illustration based on clinical principles, presented to support the thesis, reinforces that the weakened body This reflects a system that still fails in providing timely civil protection. Dignity will only be complete when... Medicine and the judiciary working in symbiosis to interrupt cycles of pain, ensuring that The patient is only fighting against the pathology, and not against the home environment itself.

Contemporary scientific evidence is compelling: social isolation and absence Lack of ethical family support is a predictor of severe depressive trajectories and increases the risk of relapse. tumoral. Therefore, legal intervention to remove the aggressor or guarantee provisional alimony. It is not a mere procedural formality, but an "indirect clinical intervention" essential for survival. The biological condition of the woman. From a bioethical perspective, the abandonment of a sick partner must be recognized. as a moral failing that undermines the otherness necessary for life in society. When dealing with A woman who has undergone a mastectomy is treated as a disposable object; the partner violates not only the contract. affective, but also the overarching principle of human dignity. It is up to the Judiciary to impose consequences. Civilians who discourage helplessness and guarantee a minimum standard of living during convalescence.

The role of the breast specialist, as a reporting agent, constitutes the first link in a...

A chain of protection that should culminate in effective civil protection. Clarity in communication and the Institutional care reduces the patient's emotional suffering and decision-making regret.

Therefore, mandatory reporting should be seen as an extension of medical care.

allowing the law to act preventively before financial or psychological violence occurs.

makes the continuation of cancer treatment unfeasible. Overcoming the barrier to accessing civil protection.

This is the biggest challenge for the next decade, requiring Civil Law to recognize that the time of illness is incompatible with procedural delays.

Compensation for moral damages in cases of emotional abandonment during serious illness should have of a pedagogical and punitive nature, compensating the patient for the vital energy subtracted by the stress of helplessness. In short, a situated and humanistic view of Law is proposed, in which the norm serves the Public health and life. The integration of supportive therapies, coupled with rigorous legal protection. Against stigma, it constitutes what is called "therapeutic justice." Only through this vision Through a multidisciplinary approach, it will be possible to transform the trauma of neoplasia into post-traumatic growth. ensuring that the patient finds, within the legal system, the peace necessary for her process of cure.

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