



The freedom of the female body: the sexual and reproductive dignity of women

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SUMMARY

This article aims to demonstrate the need to understand the basic notion of female personal autonomy and the domination over their bodies that constitutes the biggest obstacle to gender equality. This notion is often understood restrictively as the free choice to procreate, however, female freedom is a larger set of rights, interdependent on each other, without which there are no autonomous choices or real equality such as access to education and information, access to the health system, access to contraceptive methods, legal and safe abortion, protection against sexual violence such as rape, female genital mutilation, child marriages, forced marriages, etc. All over the world, women are deprived of the right to freely dispose of their bodies, and the repercussions do not just concern the violation of bodily autonomy protected by law, they deprive us of a fundamental universal right. Some States contest the recognition of these rights and the implementation of programs designed to support them. Within civil society itself, religious representatives defend representations of the family and the procreative role of women who oppose their autonomy of choice. In view of this, it is essential that civil and political societies are sensitized to promote effective access to women's fundamental guarantees .

Key words:Autonomy. Health. Rights. Guarantees. Women.

ABSTRACT

This article aims to demonstrate the need to understand the basic notion of female personal autonomy and the domination over their bodies that constitutes the biggest obstacle to gender equality. This notion is often understood in a restrictive way as the free choice to procreate, however, female freedom is a larger set of rights, interdependent on each other, without which there are no autonomous choices or real equality such as access to education and information , access to health care, access to contraceptive methods, legal and safe abortion, protection against sexual violence such as rape, female genital mutilation, child marriages, forced marriages etc. All over the world, women are deprived of the right to freely dispose of their bodies, and the repercussions do not only concern the violation of bodily autonomy protected by laws, they deprive us of a fundamental universal right. Some States contest the recognition of these rights and the implementation of programs designed to support them. Within civil society itself, religious representatives defend representations of the family and the procreative role of women who oppose their autonomy of choice.

Keywords:Autonomy. Health. rights. Warranties. Women.

1. INTRODUCTION

The principle of equality between men and women and the elimination of all forms of discrimination between genders are fundamental objects of human rights. Since the beginning of social formations, women, in an exponential majority, have been victims of violence, violations of their basic rights, and daily, persecuted and killed for the simple reason of being a woman.

185 Even after memorable struggles that over the years gave them countless advances at a global level, such as adoption of the Universal Declaration of Human Rights, established by the United Nations General Assembly in the year of 1948, which brought, in its 30 articles, several provisions to guarantee dignity and equal rights between men and women, and the Convention on the elimination of all forms of discrimination against women, of 1979, which was the most significant milestone of attention directed only to women.

The research aims to expose the applicability and compliance with the fundamental principles of guaranteeing the rights of

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women, dealing with respect for full bodily autonomy in judicial decisions within the scope of Law, based on a descriptive methodology based on doctrinal and bibliographical references that cover the theme. In this sense, the impact of Brazilian judicial decisions will be addressed regarding the interference of women's free individual family planning and freedom of contraception, under the obstacle of the inaccessibility or illegality of some methods for this.

two. MATERIALS AND METHODS

The study was developed using research methodology using documentary sources, such as legal texts from the United Nations, Federal Constitution of Brazil, national laws, doctrinal works, articles, projects and legal contents that deal with the topic, in order to analyze the various forms of violations of sexual, reproductive rights and female bodily/sexual autonomy, as well as evaluating the impact of judicial decisions regarding interference with women's free individual family planning.

3. RESULTS AND DISCUSSIONS

3.1 Brief historicity and female achievements

Respect for the autonomy of women's individual will is a sign of civilizing progress, being protected by some fundamental rights such as the right to life, health, the right not to be subjected to torture, prohibition of gender discrimination, and the right to life toilet.

Historically, at the national level, a feminist mobilization developed in 1993, in the *National Meeting of Women and Population – Our rights for Cairo '94*, 12 guidelines that were presented to the National Congress with demands and propositions from Brazilian women regarding the decriminalization of abortion and their reproductive and sexual rights. Named *Letter from Brasilia*, was responsible for preparing the ground for a larger global event that would come the following year, and recommended, in its content that:

“It is up to women, on the occasion of the International Conference on Population and Development, to demand that public policies recognize their rights to control fertility. It is up to us to refuse to be victims of policies that affect our bodies and souls and, also, to assume the role of protagonists on a global level in defense of principles that prevent the disposability of human beings and that ensure a true common future for all the humanity”.³⁷

The letter referred to the Program of Action of the International Conference on Population and Development, established by the United Nations in September 1994 in Cairo, Egypt, which brought together human rights issues, discussions about the population, sexual and reproductive health, gender equality, sustainable development, among other issues. More than 180 government delegations, around 1,250 non-governmental organizations (NGOs) and approximately 12,000 men and women from around the world came together to reach a remarkable global consensus on aspects of individual dignity that were not yet protected by law. The right to free family planning with a focus on reproductive health was also the subject of discussion, for the first time, defined at the conference as:

A state of complete physical, mental and social well-being in all aspects related to the reproductive system and its functions and processes, it implies that people have the ability to reproduce and the freedom to decide when and how often they want to do so. do (ROSAS, 2004, p. 36).

3.2 Violations of bodily autonomy

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When it comes to women's autonomy over their wills and bodies, forms of rights violations occur in countless ways, and are deeply rooted in a context of patriarchal and misogynistic values in relation to sexuality, the role of women in society, in families and their reproductive capabilities.

A 2021 report by the United Nations Population Fund titled “My Body Belongs to Me: Claiming the Right to Autonomy and Self-Determination” offers a focus on women’s sexual and reproductive rights from all over the world. This report aims to demonstrate the universality of the right to bodily autonomy.

37 http://cepia.org.br/wp-content/uploads/2021/03/12Pontos_Carta-de-Brasilia.pdf

The text reveals the many deficiencies observed in this issue, as demonstrated by the report's definition of violation:

“Bodily autonomy and bodily integrity are violated when a husband prevents a woman from using contraception, when a person is forced to exchange unwanted sex for a home and food, they are violated when people with diverse sexual orientations and gender identities cannot walk on the street without fear of aggression or humiliation; Bodily autonomy and integrity are violated when people with disabilities are stripped of their rights to self-determination, to be free from violence and to enjoy a safe and satisfying sexual life (CEPIA, 1993).

3.3 Contemporary nature of the theme

In line with the guarantees that were set out in the agenda at these conferences, in 2021, a national demand that demonstrates a serious transgression of already consolidated rights reached the Brazilian courts: the denial of women's free access to the method of contraception using an intrauterine device (IUD) in health centers without the consent of their spouses.

Health plans, when using this condition, sought support in Law No. 9,263/9 of 1996, which deals with family planning, which grants families the right to have as many children and whenever they want, in addition to a series of guarantees. .

The aforementioned Law also focuses on voluntary sterilization methods, which relativize women's rights to individual autonomy. To carry out Tubal Ligation, for example, the female will alone is not enough to do it, requiring the consent of the spouse, being over 25 years old, or having at least two living children.

One of the cornerstones of efforts to eliminate discrimination against women is ensuring that they can access sexual and reproductive health services. The Committee on the Elimination of Discrimination Against Women, in its general recommendation number 24, specified that it is discriminatory for a State to refuse to legalize certain acts relating to procreation, highlighting that laws that criminalize some medical procedures aimed at women, and laws that repress them, they also constitute an obstacle to access to healthcare.

“11. Measures to eliminate discrimination against women are not considered adequate if a health care system lacks services for the prevention, detection and treatment of women-specific diseases. It is considered discriminatory if a State Party legally refuses to provide certain reproductive health services to women. For example, if health service providers refuse to perform those services on the basis of conscientious objection, measures should be taken to ensure that women are referred to other alternative health providers (CEDAW, 1999, p 4).

Being an extensive interpretation, Law No. 9,263/9 of 1996 does not provide for the need for male consent for the insertion of the IUD, only in the case of sterilizing surgery, known as tubal ligation, which also violates the right to individual autonomy.

3.4 Conception, contraception and the social factor

The question of whether or not to have children is far from being exclusively personal or biological, as it also depends on several social factors. According to Motta and Moreira (2021), the World Health Organization (WHO) set for Brazil, given the statistics presented in recent years, a sad estimated target of 30 maternal deaths for every 100,000 live births by 2030.

In addition to the current mortality rate in the country, millions of women around the world suffer from infections to lasting trauma related to pregnancy, and although access to contraceptive methods, technologies and family planning reduce the risk of an unwanted pregnancy, none contraceptive method is 100% effective.

187 Reproductive rights are not limited to access to reproductive health services, they also include, in particular, the right to contraception and voluntary termination of pregnancy. Brazil is one of the countries in Latin America where Abortion is considered a crime, with the exception of three specific situations: in case of risk to the pregnant woman's life, in case of pregnancy resulting from rape and in case of diagnosis of anencephaly in the fetus. Although abortion is legal in these cases, it should be noted that access to this right is extremely precarious: there is no information that allows women to have full access to this right, few hospitals offer the service and medical teams often refuse to provide abortion. carrying out the operation, misusing the right to conscientious objection, among other obstacles.

A national study on the topic (*DINIZ et al., 2017*), carried out in 2016 among women aged 18 to 39, educated and living in urban areas, reveals that 15% of them resorted to at least one abortion during their lifetime, half through

of misoprostol, which is a

“Medication used to treat gastric ulcers that began to be used in Latin America to induce abortion due to the uterine contractions it causes. Currently, this drug is widely used in obstetrics in different parts of the world to induce labor or abort” (ZORDO S., 2016)

Half of these women who used the drug illegally were hospitalized to complete an abortion or for illnesses and infections caused by misuse. Although the practice is widespread in all social classes and in all regions, the majority of these women are young, poorly educated, black, have low income and live in the poorest regions of the country. In Brazil, particularly, the illegality of abortion only increases suffering and social morbidity, as well as penalizing poor women who do not have the necessary economic and social resources to resort to a safe abortion.

Without money, poor black women are subjected to clandestine clinics that do not offer the minimum care, necessary professional support and end up having their lives put at risk. Thus, talking about abortion is talking mainly about the violation of these women’s rights, a violation of their reproductive, sexual rights and autonomy (GALDINO; ROCHA, 2015)

Abortion is present in the special part of the Brazilian Penal Code, in articles 124 to 128, which address penalties if the woman herself or someone else causes the abortion, including increased penalties.

According to Katihara (2010),

(...) the legalization of abortion, contrary to what many would have you believe, does not go against respect for human life, but in favor of it.” In order for there to be proof that the abortive act, when carried out correctly, is something positive, it is important to highlight that it, when carried out clandestinely, “(...) is the third cause of maternal deaths in Brazil.

State power and individual freedom

Criminalization and the impossibility of carrying out abortion, even in cases where the law allows it, demonstrate the control that the Brazilian State exercises over women's bodies. In Brazil, in 1990, an inquiry was opened in the Legislative Branch to investigate complaints of mandatory practices of forced sterilization as a tool for population control in the poorest regions of the country.

State mechanisms to control gender identities and relations have always been and are present in modern democracies. The regulation of sexual rights has as its ideological basis a conception of the woman-mother and of a female sexuality exclusively at the service of procreation.

It is the State's duty to constantly observe violations suffered in its territory, as laws have a significant impact on the realization of women's rights, and on gender equality and sexual and reproductive health; therefore, they must be aligned with the human rights principles and standards already agreed worldwide.

FINAL CONSIDERATIONS

The principle of autonomy of the female will, whose critical analysis permeates this work, has constitutional recognition and in various legal provisions at national and international level.

Law is a field of disputes crossed by material and symbolic inequalities, an area in which women, as a collective, are situated in subalternity, precisely because it is a discipline that legitimizes systems of domination by force.

188 Social norms must also become more gender equitable, improve opportunities women's livelihoods and regulating their leadership roles, can increase women's power to make decisions within families and about their bodies. Progress fundamentally depends on breaking society's patriarchal system, where men are willing to move away from dominant roles that privilege their powers and choices, to the detriment of fair and better opportunities for women.

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