

## Natural law and social reality: women's struggle for recognition and equality in Brazil

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#### SUMMARY

This article proposes a critical analysis of the normative trajectory related to women's rights. women in Brazil, highlighting both the legislative milestones that contributed to their consolidation and the persistent structural obstacles that limit its effective implementation in social and legal practice. The struggle of women, driven by feminist movements, generated important milestones such as the Maria da Penha Law and the classification of femicide, but cultural and institutional obstacles still hinder the implementation of these standards. The intersectional perspective, which takes into account multiple forms of oppression, is essential for overcoming inequalities, especially for women in situations of vulnerability. Philosophical reflection on the place of women in society and legal advances are crucial to rethinking substantial equality, which goes beyond formal equality. The article highlights the importance of constant vigilance, resilience and institutional improvement to ensure that women's rights are effectively lived and protected in everyday life.

**Keywords:** Women's rights. Legislative advances. Gender equality.

Feminism. Structural inequality.

#### ABSTRACT

This article proposes a critical analysis of the normative trajectory related to women's rights in Brazil, highlighting both the legislative frameworks that contributed to its consolidation and the persistent structural obstacles that limit their effective implementation in social and legal practice. The women's struggle, driven by feminist movements, generated important milestones such as the Maria da Penha Law and the classification of femicide, but cultural and institutional obstacles still hinder the implementation of these norms. The intersectional perspective, which takes into account multiple forms of oppression, is essential for overcoming inequalities, especially for women in vulnerable situations. Philosophical reflection on

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women's place in society and legal advances are crucial to rethinking substantial equality, which goes beyond formal equality. The article highlights the importance of constant vigilance, resistance and institutional improvement to ensure that women's rights are effectively lived and protected in everyday life.

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## 1. INTRODUCTION

The consolidation of women's rights in the Brazilian legal system represents a civilizational achievement and a milestone of democratic advancement. However, the social reality demonstrates that legal instruments do not yet fully translate into guarantees concrete. The persistence of structural inequalities, gender-based violence and sub-political representation are indications that formal equality has not yet resulted in equality substantial.

The trajectory of the women's struggle in Brazil, marked by resistance and mobilization, must be constantly remembered and analyzed. Current achievements are the result of a past permeated by exclusion, injustices and the historical discrediting of women. Even with advances such as the Maria da Penha Law and the classification of femicide, the implementation of these rights face normative, cultural and institutional obstacles. As Beauvoir points out (2009, p. 11), "one is not born a woman: one becomes a woman", a social construct that still exists today imposes barriers to full female citizenship.

Djamila Ribeiro (2017) reinforces that the erasure of female experiences, especially those black women, constitutes a form of symbolic violence that compromises the full recognition of citizenship: "when we talk about feminism, it is always necessary ask: which woman are we talking about?" This provocation invites reflection on the multiple layers of oppression that make up the gender reality in Brazil.

In view of this scenario, this article seeks to discuss the main legislative advances, the challenges in applying standards and possible ways to overcome inequalities of gender in Brazil. The research is based on an interdisciplinary bibliographic review, with contribution to feminist theories, philosophy of law and recent empirical data, seeking contribute to the construction of a more egalitarian law that is responsive to the reality of women in vulnerable contexts.

The proposed approach is relevant not only from a legal point of view, but also philosophical and political, for contributing to the deepening of the debate on gender justice and the transformation of social structures that perpetuate inequalities. Although all beings humans possess reason and are therefore equally capable of achieving virtue, history shows that such principles have historically been denied to women. This inequality persists in contemporary forms, requiring constant resistance and action collective. Far from being a reason for resignation, this reality should reinforce the commitment to social transformation. With courage and determination, women have won rights that, in previous times, seemed unattainable and it is precisely the memory of these achievements that drive the continuation of the struggle.

Thus, this article aims to analyze the main legislative advances in field of women's rights in Brazil, as well as the structural obstacles that hinder its full implementation. Based on a feminist and philosophical theoretical framework, a critical reflection on the challenges faced by women, especially those in situation of vulnerability, and possible paths to promote equality substantial in the country.

## **2. THEORETICAL FRAMEWORK: FEMINISM, PHILOSOPHY AND INTERSECTIONALITY**

In Brazil, women's right to political participation was recognized in 1933, but only with the enactment of the Federal Constitution of 1988 did equality of rights and duties between men and women was fully assured. These advances are the result of mobilization of feminist movements, especially in the 1970s and 1980s, which pushed for fundamental social and legal transformations. Among the most important achievements relevant are: formal equality between the sexes, the prohibition of gender discrimination in labor relations, the expansion of sexual and reproductive rights, as well as protection of life and physical integrity.

As a legal framework for redemocratization, the 1988 Constitution establishes the rights of women as an expression of the fundamental principles of human dignity and equality, reaffirming the State's commitment to promoting social justice. The Magna Carta, in its article 5, establishes that "all are equal before the law, without distinction of any kind nature", which includes women and men on an equal footing before the legal system (BRAZIL, 1988).

These rights, however, are not fully realized due to the persistence of violence.

manifestation of the patriarchal social relations that still organize Brazilian society, therefore being a political and collective problem. In this context, the fight against violence domesticity gains centrality, with Maria da Penha's trajectory as a symbolic landmark. After almost 20 years of seeking justice, his case resulted in the enactment of Law No. 11,340/2006, known as the Maria da Penha Law, which establishes mechanisms to curb and prevent domestic and family violence, in addition to imposing stricter punishments on aggressors.

Maria da Penha became a symbol of resistance and transformation, showing that courage individual can generate collective and structural impacts. Its history shows that ensuring a A life free from violence is a fundamental step towards the consolidation of democracy and justice social.

In this sense, Minister Cármen Lúcia, in a plenary session of the Federal Supreme Court (STF) in 2024, stated: *"When a woman is violated, is murdered, is raped, is harassed, all of us women in the world are"*. The minister adds: *"Based on the hatred, a democratic society cannot be built"*, highlighting that there cannot be democracy where there is permanent violence against women. On another occasion, he highlighted: *"A woman is not free who cannot say what her vocation is to seek to be what she wants, A society in which everyone is equal in dignity and women are treated is not fair unevenly."*

The minister's statements summarize the urgency of promoting material and economic equality. address the overlap between structural inequality and everyday violence. The protection of women's fundamental rights, especially the right to life and dignity, must be a priority of the democratic rule of law.

The persistence in Brazil of a social structure that naturalizes gender violence is notable. This deeply rooted patriarchal culture is often reflected in the criminal process, perpetuating the revictimization of women.

In philosophy, Seneca presents an ambiguous view of the female role. Although he recognizes that virtue is not restricted to the male gender, it also reproduces stereotypes that limit the active participation of women in public and philosophical life.

This duality reflects a historical challenge: even in philosophical currents that promote rational equality, there are cultural barriers that reinforce inequalities. This connects to the current legal scenario, in which, despite the existence of protective laws, the application of equality faces social and institutional obstacles.

Historically, philosophical thought, when addressing the feminine, tends to treat it from a



philosophical debate. Instead of recognizing its autonomy and relevance, Philosophy often reduces it to a peripheral position, as if it were just the "other" in the face of dominant culture. This reveals an ongoing process of silencing, in which the feminine is not considered a subject of value, but rather an alterity to be explained from the perspective male.

Simone de Beauvoir's reflection is blunt in denouncing this framework exclusionary. When questioning how one can think of women within a philosophical model that favors self-sufficiency and autarchy, as was established since ancient Greece, it reveals the paradox experienced by those who, although human and free, are systematically situated in a subordinate position. As stated:

“Every individual who cares to justify his existence feels it as an indefinite need to transcend oneself. Now, what defines The singular situation of women is that, being, like every being, human, an autonomous freedom, discovers and chooses in a world in which men impose on her the condition of the Other. The aim is to make her object, to return it to immanence, because its transcendence will be perpetually transcended by another essential and sovereign consciousness. The woman's drama is this conflict between the fundamental claim of every subject, which always places itself as the essential, and the demands of a situation that constitutes it as inessential. How can a being be realized human within the feminine condition?” (BEAUVOIR, DS I, 1980, p. 23).

The author thus highlights that women are forced to confront the abyss between their condition of autonomous subject and the social reality that reduces her to object. The dilemma of being a woman, in this context, translates into a continuous struggle for the affirmation of one's subjectivity in the face of structures who insist on denying it.

### **3. LEGISLATIVE AND INSTITUTIONAL CHANGES IN RIGHTS OF WOMEN IN BRAZIL**

In recent decades, the Brazilian legal system has undergone profound transformations regarding the protection and promotion of women's rights. Such advances did not occur spontaneously, but were the result of tireless struggles waged by the movements feminists and growing social pressure for truly inclusive justice and egalitarian. Little by little, the legislation recognized, albeit gradually, the urgency to address structural problems such as gender violence, material inequality and

erasure of female narratives in history.

One of the biggest milestones in this journey was the creation of Law No. 11,340/2006, the Maria da Penha, established with the aim of preventing, punishing and eradicating domestic and family violence practiced against women. With it, new protective measures emerged and the concept of violence, in addition to causing a true cultural transformation in the treatment of gender violence by the State. The case of Maria da Penha Maia Fernandes, an icon of the fight against impunity, gained international prominence, being recognized by the Court Inter-American Commission on Human Rights as a paradigmatic example of the State's failure to punish domestic violence. This recognition highlighted the urgent need for a effective and specific legislation.

In 2015, the enactment of Law No. 13,104, which modified the Penal Code to define the femicide as a qualifying circumstance for homicide, represented another crucial advance. By including femicide, the law not only criminalizes the murder of women motivated by gender issues, but also signals that lethal violence against women must be understood as a social and cultural phenomenon, and not as simple isolated cases or passionate.

Law No. 13,718/2018, which classified sexual harassment as a crime, filled gaps legislative measures and gave visibility to previously invisible forms of violence committed in public and private spaces. This milestone brought to light issues that were previously naturalized by the penal system, but which now gain legal recognition as criminal practices.

In the context of labor relations, Constitutional Amendment No. 72/2013, known as PEC das Domésticas, expanded the rights of domestic workers, a group historically undervalued, formed mostly by black women. This advancement was an important step in the search for material equality in the labor market and for valuing the dignity of working women.

Other legislation also had a relevant impact, such as Law No. 12,034/2009, which established minimum quotas for female candidates in proportional elections, with the aim of combating the political underrepresentation of women, and Law No. 14,245/2021, known as the Mariana Ferrer Law, which seeks to prevent the revictimization of women in legal proceedings, prohibiting the use of the victim's personal data to delegitimize their report.

In addition to its internal actions, Brazil has also committed to adopting treaties relevant international agreements, such as the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Belém do Pará Convention, reinforcing their



promote gender equality.

However, although these advances represent important achievements, they are far from ensure the substantial equality provided for in the Federal Constitution of 1988. Under the terms of Article 5, item I, of the Federal Constitution, "men and women are equal in rights and obligations, under the terms of this Constitution" (BRAZIL, 1988). However, as already pointed out Simone de Beauvoir (1980), women have historically been placed in the position of "Other", and To break with centuries of subordination, more than formal equality is needed.

Although the aforementioned legislation responds to the historical demands of the movements feminists, its effectiveness is linked to overcoming cultural, institutional and structural. The great challenge today is to guarantee not only access to the law, but also its effective implementation, especially in the most vulnerable contexts, such as in the peripheries urban, in indigenous and quilombola communities.

As Ribeiro (2017) reminds us, "we must always ask: which woman are we speaking?" The law needs to adopt an intersectional perspective, recognizing that oppressions are not only multiple, but interconnect in complex ways, making a legal approach that ignores factors such as race, class, sexual orientation and other identity dimensions.

Therefore, legislative advances, although essential to consolidate democracy and female citizenship, demand constant vigilance, resistance and improvement institutional. The aim is to ensure that women's rights are not only asserted, but effectively lived and protected in the daily lives of Brazilian women.

However, it is also important to remember the case of Ângela Diniz, who was shot dead in face, which exemplifies the culture of female blaming. At the time, the defense attorney the defendant even stated before the jury that the murder was a "suicide with bare hands" "other people's crimes", a thesis that reflects the ongoing attempt to shift responsibility for the crime for the victim. This type of defense has been widely combated over the years and was recently repudiated by the Supreme Federal Court.

The decision on ADPF 1,107, judged by the STF, became a milestone in the fight against this type of argument, preventing the victim's social and sexual life from being used to minimize the responsibility of the aggressor. As Minister Cármen Lúcia highlighted, it was necessary for the STF reaffirmed, categorically, that the thesis of blaming the victim "no longer holds", establishing a new legal standard regarding the treatment of victims of violence.

oppressive practices, ensuring that women who are victims of violence are not again penalized during the judicial process. Thus, the STF decision marks an advance significant in tackling a historical problem that still persists in various spheres of society.

#### 4. OBSTACLES TO THE REALIZATION OF WOMEN'S RIGHTS: A LOOK AT STRUCTURAL BARRIERS

The achievement of women's rights in Brazil, although marked by important advances normative, still encounters deep resistance that transcends the legislative level. The difficulty in realizing these rights is anchored in three major obstacles: the persistence of patriarchal structures, the mismatch between norms and jurisprudence, and the insufficiency of an intersectional approach in the justice system.

It cannot be ignored that law arises in a social terrain historically dominated by male structures. Patriarchy, far from being an abstract concept, operates in a concrete in the maintenance of privileges and the naturalization of gender roles. Therefore, many of the norms that seek to promote gender equality are met with resistance by a legal culture that still carries remnants of a time when the feminine was seen as synonymous with fragility, irrationality and subordination. As Simone already warned de Beauvoir (1980), women have historically been constituted as the "Other", and not as subject full of rights.

This resistance is not limited to the social imagination; it materializes in judicial decisions. Even with the recognition of femicide as a qualifying circumstance of homicide and with the validity of the Maria da Penha Law, there are still judgments that relativize or reinterpret these norms based on arguments biased by conservative moral values. The thesis of the "legitimate defense of honor", for example, was maintained for decades to justify murders of women by their partners, a symbolic and institutionalized violence which was only frontally rejected with the judgment of ADPF 1,107, when the Supreme Court Federal Court dismissed it as incompatible with the foundations of the State Democratic Law, especially for violating the principle of human dignity.

As Minister Cármen Lúcia stated in that trial: *"That thesis no longer holds water."* But the simple fact that it was necessary to reiterate the obvious reveals how ingrained this logic is perverse form of victim blaming.

Another point of tension lies in the absence of a real commitment to intersectionality. The law, when constructed under the appearance of neutrality, fails to recognize that not all women access their rights in the same way. The white, middle-class woman, for

example, does not experience the same violence and obstacles as black, indigenous women. This is an open access article published under

peripheral, trans or disabled. As Ribeiro (2017) warns us, it is always necessary ask: *which woman are we talking about?* Ignoring this plurality means excluding precisely those who most need state protection. The lack of an approach intersectionalism deepens already naturalized inequalities, transforming law into yet another instrument of silencing.

Finally, it is necessary to recognize that the formal equality provided for in article 5, paragraph I, of the Constitution of 1988, according to which "men and women are equal in rights and obligations" is, in itself, insufficient. The contemporary challenge is to transform this formal equality into substantial equality. Justice, to be effective, must break with the logic of blind equality and recognize historical and structural inequalities. Aristotle already taught that treating unequals equally is in itself a form of injustice. The Judiciary, therefore, it needs to be more than an enforcer of the cold letter of the law; it must be an active agent in overcoming practices that perpetuate exclusions.

Making women's rights effective, therefore, is a task that requires more than compliance literal of legal devices. It requires sensitivity, institutional courage and political will to face what still insists on remaining untouchable: the patriarchal culture rooted in institutions, in judicial decisions and, above all, in the subjectivities that reproduce these everyday violence.

## 5. FINAL CONSIDERATIONS

An analysis of women's rights in Brazil reveals a scenario of important achievements legislative and institutional measures, which represent historic milestones in the fight for equality and justice gender. However, these advances coexist with persistent structural obstacles, such as institutionalized machismo, penal selectivity, low female representation in spaces of power and the ineffectiveness of public policies.

From an intersectional and philosophical feminist approach, it is understood that Formal equality, although necessary, is insufficient to guarantee social transformation required by the Federal Constitution of 1988. The achievement of substantial equality requires the confronting the patriarchal, racist and classist structures that permeate institutions legal and social.

It is necessary to go beyond the literal application of the legal norm and incorporate a hermeneutics committed to women's human rights, with an emphasis on the dignity of the person human, equity and social justice. The role of the State, the Judiciary and civil society

guaranteed as a founding value of Brazilian democracy.

In view of the aspects presented, it becomes evident that the consolidation of women's rights women in Brazil is not limited to the enactment of norms. The implementation of these rights requires an ongoing commitment, which goes beyond the formal limits of the legal system and projects itself into the complex task of transforming social and cultural structures historically exclusionary.

Gender equality, as provided for in the Constitution, is not achieved only with provisions legal; it demands a profound rupture with the patriarchal foundations that, even today, sustain inequalities disguised as normality. It is in this scenario that the Law finds its noblest mission: to act not as a mere guardian of the norm, but as a tool of substantial justice, sensitive to the marks left by centuries of oppression.

The fight for women's rights is therefore not a circumstantial agenda, but a historical urgency. This is a process that requires vigilance, institutional courage and, above all, transformation of consciousness. Simone de Beauvoir's emblematic phrase "*No if you are born a woman: you become a woman*" continues to echo with force, revealing that the identity feminine is forged under social pressures and imposed expectations, which still shape the access to power, dignity and freedom.

Recognizing this construction is also admitting that the Law has the duty to break with the illusory neutrality that so often reinforces exclusions. Only when the legal system aligns itself to the ethical and the human, recognizing the plurality of feminine experiences, is what opens up space for a truly emancipating justice.

More than ensuring the letter of the law, realizing women's rights means creating conditions so that they can fully exercise their freedom and autonomy, overcoming the structures that relegate them to the condition of inessential. It is allowing each woman to exist beyond stigmas, that is the subject of its own history, not as an exception, but as a rule.

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