BETWEEN LIVING AND DYING: WOMEN AND GENDER-RELATED VIOLENCE IN BRAZIL

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ABSTRACT
This study focuses on the living and dying of women in Brazilian Society, more specifically in the city of Fortaleza, State of Ceará, Brazil, where marriage conflicts and gender-related violence are revealed in public institutions that deal with denunciations of violence against women, since the promulgation of Law Nr. 11340 - Maria da Penha Law. Analysis in this study are based on contemporary authors such as Sorj and Monteiro (1985), Grossi (1995), Gregory (1987), Rifiotis (2006), Debert (2006), Spivak (2010), and Agambe (1998) on penalization and judicial processing of suspects of aggression or murder of women. According to Debert (2006), judicial processing is the main tool to deal with interpersonal conjugal conflicts that happen at home. It is in this context that issues and advancements related to the Law are seen in this study which makes it possible to access how women, social movements, police officers and judicial agents are prone to accept change.

KEYWORDS
Violence; Women; Subalternity; Bare Lives

Law, State monopoly and bare lives

When I leave this place she’s going to pay, the devil is already singing in my head (man speaking at the Women’s Police Station – after being arrested in the act – Mar. 11.2013)

Nuts is a dude who trusts in an animal that bleeds for seven days and won’t die (A joke cracked by a man being interviewed at Nuah – May 16.2013)

This work is part of an analysis of a research for a doctorate degree in Sociology at the Federal University of Ceará, Brazil (UFC) whose focus is the amorous conflicts when they are taken to public institutions that deal with denunciations of violence against women since promulgation of Law Nr. 113440 Maria da Penha Law, in order to evaluate subjective and

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social impacts on subjects involved. This new juridical ordainment reflects how much interpersonal relations start being the work base for modern institutions, changing the control mechanisms exerted on private lives and refining behavior and violence due to a crescent opening to the public of what once was strictly intimate. Those new forms of institutional regulation that place responsibility and criminalize practices of conjugal violence have reached limits that deserve scrutiny by the Social Sciences.

The study’s object is centered on the possibility of evaluating women when they are under stress due to their new situation, since the breaking up of the circle of violence and the following path of recovery. In this new path, women try to strengthen themselves by denouncing the violence they suffered – what also seems to reveal that the breaking up of an identity, hidden in pain, is capable to weave new social bonds by means of particularizing her feminine self.

The approved law helped women to leave their private world and reveal issues related to the maintenance of violence. It is in this way that women go through a trail of violated/victimized subject to a defying posture to counter gender-related domestic violence. They leave the area of veiled violence to face the violence that they suffered.

This escaping route takes her to an acting role of producing a new historical subject - “the same woman but a more empowered one”. The violent situation does not separate her two case histories, but elaborates and succeeds in reevaluating her extreme posture, letting her to live and reflecting on how to overcome her daily predicaments. The act of going to the Police Station is an outrage for some, and awakens wrath in others. Oppression directed towards women in the Brazilian society is seen in several of their bodily movements creating an equal number of resisting situations.

We based our study on readings from authors such as Das (1997). Foucault (1999), Versiani (2005). Agamben (2004) and, specially, Spivak (2006), when they affirm that female subjects can be evaluated because they do not talk, not to due to an “impairment”, but due to not being socially heard. Thus, we question why this female identity become a subaltern subject, and, in a certain way, goes beyond this reality to a more resistant reality. According to Agamben (2004), in his work State of Exception, the author recognizes the existence of a pattern that demonstrates that people are not important to the State after their death, and are known as bare lives. Is there, then, a contradiction in those lives, that is, are we or are we not important for our society?

Agamben (2004) resorts to a category he calls “homo sacer” to designate one who leads a bare life. The author builds up parameters for dying, that is, for some subjects death would be a contingency and for others a fatality. It is possible, in a given fashion, to kill as Agamben (2004) says, for there is a distinction in life within the environment where the homo sacer “lives”. Public and private, right and left, nothing makes any sense. Everything is a kind of sociopathy. There is a perception that institutions are not present. It is the nothing, the void that ends up producing chaos. There is an “anthropological machine of biopolitics” (Agamben, 2004) that produces this “new” homo sacer. It yields juice, human juice, juice out of those who are disposable.

Let’s see what one of the interlocutors says:

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6 Women Defense Police Station, Special Court for Women Threatened by Violence, Referral Centers for Assistance to Women Threatened by Violence, and Homes and Shelters.
I think that if this law really exists it exists on paper only. It exists on paper only because I have seen my ex, for instance, my children’s father, I have filed several complaints against him (Women’s Police Station), he was called, once he followed me till I got here, was arrested, but he always returns home. So much so that he says that he takes those writs and use them as toilet paper, do you see it? So the law has no weight. I don’t believe it, I know there is Maria da Penha, the Maria da Penha Law, but I don’t trust its severity, I don’t think it is severe indeed. I don’t believe it. (A woman at the Women’s Police Station, Fortaleza)

As it is shown by the study taken by author, there is an archetype for the modern that is perceived by means of the state of emergency, called *iustitium*[^1]. It called not only for the suspension of justice, but of rights as such. Therefore, it allows for observation of the state of emergency in its paradigmatic shape, serving as a model on an emergency situation since the moment that obligations requested by the law may not be attended to by the judges. The *iustitium* suspends the rights and from that point on all juridical prescriptions are set aside. (Agamben, 2004, 70)

According to a report by the District Attorney (CE/Brazil), policemen usually overlook the situation when they have to apply the Maria da Penha Law, and will not arrest the guy except if he resists, that is, if there is something else beyond the infringement – they always talk, counsel, try to make the man come to his senses. But if there is any kind of contempt or lesion they have to take him in. (Field Journals, May, 2013)

However, we can predict that statistics of women’s deaths are always beyond expected. What are the reasons for those deaths to occur? The police officer in charge of the Women’s Police Station, when questioned about the deaths, said:

I’m working here for nine years, started even before the Maria da Penha Law became effective, what I’ve seen is indeed a 42% increase in complaints, since the start up to now, but what we feel is a decline of violence. I say that the law is strong today, it is indeed respected, and protective measures have a strong inhibiting force. Many victims, however, don’t go ahead with complaints which is also harmful because they present themselves, fill up a case record, but if there is no bodily injury, they aren’t required to do it, what happens, then, they give it up. What I see in some cases is that they use the Law when they come to the Police Station to scare the aggressors, and not fill up a formal complaint, and what we see when a legal procedure isn’t forced by the police there is a gradual deterioration leading to a worse situation in which the aggressor becomes more violent. (Police Officer’s Interview, May 16, 2013)

Foucault (1987) propounds limits and concepts and advances an analysis about power when identifies the “microphysics” of power that expresses itself beyond State’s boundaries. According to the author, to describe power as a phenomenon dependent on the state apparatus is to understand it simply as a repressive force. What does it mean? Foucault hurries to say that power relations happen beyond State’s limits because there isn’t a specific point from which power issues.

[^1]: The word *iustitium* literally means “interruption, suspension of rights”; almost an interval and a kind of cessation of rights. (Agambbe, 2004, 68)
The study of microphysics presupposes that the power exercised is not conceived as a property but as a strategy, that its effects of domination are not assigned to an ‘ownership’, but provisions, maneuvers, tactics, techniques, functioning; that it is unraveled before it a network of relations that is always tense, always in activity, and not a privilege that could being gained; that it should be given it as a model before anything the everlasting battle and not the contract that offers a concession or an achievement that overtakes a domain. We have, in short, to admit that that power is exercised beyond what we have, which is not a ‘privilege’ acquired or retained by the dominant classes, but the effect as manifested and sometimes renewed by the position of those who are dominated. (Foucault, 1987 p.26)

In Foucault’s analysis of power relations, their exercise takes place in a network configuration and diffusely spread within the social body, involving a multiplicity of a correlation of intense forces that clash. Within this relational nature, power is exercised on free subjects, that is, power relations do not get along in social settings where there is no freedom. Thus it opens itself for possibilities of resistance (counter-power), one of the constituent elements of power. If there is no assurance of resistance, there are no power relations, but dominance relations.

In fact, what defines a power relationship is a course of action that does not act directly and immediately on the other [subtle effects], but acts on its own action. It is an action on the action, an action on possible actions, or actions on current, future and present. A relationship of violence acts on the body, about things; it forces, it submits, it breaks, it destroys; it closes all possibilities; it has not, therefore, by itself, another pole but passivity; and if it finds any resistance, its only choice is to try to reduce it. A power relationship, in contrast, consists of two elements that are necessary to be exactly a power relationship: the “other” (the one on which it is exercised) is fully recognized and maintained until the end as the subject of the action; and that a whole field of responses, reactions, effects, possible inventions should open itself before power relations, (Foucault, 1995, p. 243).

It is understood from this perspective that violence becomes an instrument used in power relations, because power is not perceived as violence or consent; and taking into account the author explanations of the structure of practices that put into operation the exercise of power, there are important shifts in the dynamics of power relations and, in order to analyze them, according to Foucault’s proposition (1990, p. 241), it is offered two models:

What the law proposes (power as law, prohibition and institution) is the aggressive or strategic model in terms of balance of forces. The first was widely used and proved, I think, to be inappropriate: we know that the law does not describe the power. The other is well known to be widely used too. But it is considered mere words. One uses prefabricated notions or metaphors (“war of all against all”, “struggle for life”) or formal schemes (the strategies are in vogue among some sociologists and American economists). I think it would be necessary to improve the analysis of power relations.

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8 Foucault exemplifies by citing slavery in which man is chained and incapable of offering resistance. About the matter see Foucault (1995).
What Foucault emphasizes is an analysis of the effects of power in terms of production from its fields and rituals of truth. From the disciplinary institutions of modern society, the author will discuss that the “power of technology” that was developed in the Western world is aimed at the body. This happens to enter a political arena, whose practices and power relations have immediate reach on actions driven by “new mechanisms of power” (1987, p. 132) on the body, as manipulation gestures and behavioral bans.

Therefore, an “art of the human body” from a “mechanical power” is born, which at the same time, dismantles and recomposes it in political and economic terms, and yields, respectively, docile and useful bodies. What the author called the disciplinary9 power. This notion will not be ignored by the author, when he brings the notion of biopower, on the contrary, embodies and articulates new features with other “technology” which goes to target the body-species in the body pierced by the mechanics of the living being (Foucault, 1988, p. 131), made possible by the entry in the order of some phenomena proper to human species related to knowledge and power in the field of political techniques. The people and not the individual bodies10 come to be the main target of power performance from the second half of the eighteenth century.

Disciplines of the body and population regulations are the two poles around which developed the power of organization of life. The installation, during the classical era, of this great two-faced technology - anatomical and biological – tending to individualization and specifically focused on bodily performance and turned to the processes of life - features a power whose highest function is no longer kill, but invest on life, from top to bottom. (ibid, p. 131).

Biopower is above all a way of governing life that has become a political object, where the intention is not to die and let live, but to live and let die. This, then, issues from strategies / techniques (biopolitics actions) to combat “threats” (or, for example, disease as a population phenomenon), and to preserve and control population by the State. It is evident that there are policies and practices that produce death, even if they are related to forms of control of life.

It’s a new way to look and act not only on individuals, but also and mainly about life. One consequence marked by Foucault (1988, p. 135) on the development of biopower is the importance assumed by norm’s performance, for as the law always refers to the two-edged sword, it cannot fail to be armed and this weapon happens to be by excellence death. To this end, the exercise of (bio) power, that has a task to take care of life, requires the need for continuing mechanisms acting as regulators and correctors. The author shows that it is necessary to make the law work more and more as a norm, but points out that they were not

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9 By discussing arrest Foucault showed the emergence of “power techniques”, having as his target the body of individuals. The individual becomes a product of the discipline. This “anatomical politics” came to define how to gain mastery over the body of individuals to operate according to one’s wishes.

10 Life as political object for the author, much more than the law, became the object of political disputes, this being Foucault’s background (1988) to understand the importance of sex as a target of political struggle, articulated on two axes: sex as part of body’s discipline and belongs to the control of populations by its inducing effects, that is, an array of disciplines and the principle of regulations, accessible at the same time to the life of the body and the life of the species.
made to prevent a practice or behavior, but to differentiate the ways of circumventing the law itself.

Agamben (2004, p. 13) complements and deepens these analyzes made by Foucault on biopower (power that focuses on life) and biopolitics (strategy / technique used by the state to regulate and control the lives of the population), with emphasis on its effects in the field of the law. He discusses the moment when life becomes an object for politics, and propounds that there should be regulation and control of life by the State, and referring to the relationship between politics and life, he questions: Where is, then, within power’s body, the undifferentiated zone (or at least the point of intersection) where individualization techniques and totalizing procedures touch?

Agamben (2004), in the State of Exception, argues that there are people whose deaths will not be important for the State which denominate them as bare lives. However, we can predict that female homicide statistics on femicides are higher than expected. So what happens? Is there really a law that does not protect? The law exists and the incidence of complaints is now much higher than before. Women report more, they are not silent. And is this the reason for more deaths to occur?

The author adds that there is an exceptional situation as soon as the obligations imposed by the Act on the actions of judges are suspended. The *iustitium* suspends the law and, from that, all legal provisions are set aside. Even with the Maria da Penha Law women feel empowered to report, as it is a state of exception in the law procedure. Relational and social processes are preventing the appropriate action.

Agamben (2003) textually refers, in the state of emergency, the concept of need. The author places the Latin adage “need legem non habet”, ie, necessity has no law. For him, there is a difference - two opposite directions, necessity knows no law and it creates its own law (*Nécessité fait loi*). In this way, the legal becomes illegal - necessity acts here to justify transgression in a specific case by exception (Agamben, 2003, 40-41).

Men act beyond the law, it intimidates, it reinforces empowerment, but does it protect women? See some issues in which women began to ask for the law. Let’s look at this account:

You ask if I get any protection. I have been married for 12 years and my husband has always had these jealous fits, once I tried to hang myself, but my little son who at the time was two years old insisted with him and he stopped, but now he woke me at dawn to know where was the messages from my phone, as I said I had deleted them he got angry and started beating me. I wanted the law to protect me. I could separate from him, but I have three children, to go back to my parents’ house with three children is impossible, I do not have a job, this is not my home town, I and my mother live here with him, and she did not really care about what he does. (Interlocutor at Women’s Police Station 05/Sept/2013)

For Spivak (2010) in the evaluation of patriarchy and imperialism the creation of a subject and the formation of the object the figure of the woman disappears, not in a pristine emptiness, but in a violent pitch that is the displaced configuration of women in the third world, caught between tradition and modernity.
For a more precise understanding of the social life as shaped by Maria da Penha Law, we will show some statistics from municipalities where they were obtained by the Women’s Police Station of various counties of Ceara.

For Butler (2009), in Las Vidas lloradas, we can see an endorsement of death and life of people, especially after the incident of September, 11. But the author evaluates that there is a condition as far as the life of certain social groups is considered since it is less special than in others. When we speak of HIV patients’ deaths and war casualties we can evaluate the extent to which life and death of women are important to us.

Tal vez dicha responsabilidad sólo pueda empezar a realizarse mediante una reflexión crítica sobre esas normas excluyentes por las que están constituidos determinados campos de reconocibilidad, unos campos que son implicitamente invocados cuando, por reflejo cultural, guardamos luto por unas vidas reacciones con frivaldad ante la pérdida de otras. Antes de sugerir una manera de pensar acerca de La responsabilidad global durante estos tiempos de guerra, quiero distanciarme de algunas maneras equivocadas de abordar el problema. Quienes, por ejemplo, hacen la guerra en nombre del bien común, quienes matan en nombre de la democracia o la seguridad, quienes hacen incursiones en otros países soberanos en nombre de la soberanía, todos ellos creen estar «actuando globalmente» e incluso ejecutando cierta «responsabilidad global». No hace mucho en Estados Unidos hemos oído hablar de la necesidad de «llevar la democracia» a países donde ésta brilla, aparentemente, por su ausencia. (Butler, 2009, 56)

The author argues that death can and should be cried in a state of war, terrorism, attacks; the death idea comes from a speculation that events marks the dying, the self, or rather the identity of the person, the group, it may be the engendering point in killing and dying. Some lives or deaths can be cried or not.

The feminicide / femicide is a concept under construction, it is under development and, as stated by Gómez (1), based on Sandoval, “el asesinato de mujeres debe ser problematizado en el marco de las grandes estructuras del patriarcado y la misoginia” (p. 22).

Several countries try to work with a criminal characterization of feminicide / femicide, which means define it as an autonomous crime, other than murder, subject to its own penalties. To Mota (2012) the challenge is to define what kind of murder of women can be named feminicide / femicide. In the view of Diana Russell and Jill Radford (1992) this crime is a homicide since it ensues from the fact that it was committed against a woman, “in a social and cultural context that places them in positions, roles, or a subordinate function, a context, therefore, that favors and exposes them to multiple forms of violence”, as explains Vásquez (2008, p 203). To Mota (2008) femicide occurs because:

(...) The gears that shape female subordination and violence in the culture against women appear to have deeper roots than we thought. It is in the formation of subjectivity in social subjects that one can understand the submission and domination as constituting elements of these subjects. The persistence of dominating and violent men must be sought not only in the individual history of each subject, but especially in the state, society, where discourses and practices are loaded with the idea that male has a dominating and controlling role, while female implies subjection and dependence. What factors, values feed such interpretation that be male is to controller and be a woman is to be subordinate and dependent? To start
prevention, with school subjects on human rights and gender relations, from kindergarten to the upper level can be a positive action of public policy, to secure recognition of values, diversity, human rights and citizenship, can be our next step. Not only do a lesson, a lecture or workshop, but create learning contents related to a new way of being a man and being a woman on the basis of an experience in full citizenship.

These questions reflect that modern, rational, civilized societies tend to lose a permanent performance of a final state of civilization. We are not living in a time of open war, in a violent disrupting outbreak as seen at the time of Hitler, as Elias puts it, but alert to the danger of the build-up in long-term of a State as creator of a gaping space where we could witness an increasingly number of staggering deaths. From this perspective, one is prone to ask if the problem of VD, in a way, does not characterize a genocide, or rather, femicide, open for all to see.

Biographic References


