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Brazilian Federal Constitution, Political Crises, Women and Rights

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Abstract: The feminist movement in Brazil has a trajectory of advancements and setbacks. During the Workers' Party governments, there was a significant boost in gender equality and women's protection policies; however, between 2019 and 2022, there were severe setbacks. The current Brazilian government, which began in 2023, has once again addressed women's demands for rights and public policies. Nevertheless, the oscillation between periods of progress and decline reinforces the need for state policies aimed at the continuous consolidation of women's rights. This study adopts a qualitative approach, focusing on the analysis of facts and the interpretation of the country's political moments to understand the adversities encountered from the Federal Constitution of 1988 to the present day. It employs the deductive method, along with techniques of bibliographic and documentary studies, to draw inferences that explain, throughout the course of the study, the oscillations in women's policies and rights over the past decades.

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1. Introduction

Historically, the feminist movement in Western societies has not been confined to the suffragist agenda – an important milestone, yet one incapable of fully depicting the spectrum of women's demands. Similarly, progress has not been constant nor linear, as evidenced by the fluctuation of periods of advancements and setbacks in the recognition of rights ensuring women equality, respect, and dignity, both in politics and other social domains.

In Brazil, mobilizations taking place during the 1960s and 1970s showed that politics is the way forward. "*The personal is political*" was a rallying cry that framed the struggle for equality and inclusion, as the debate challenging the patriarchal assumptions about women's everyday lives flourished and invigorated their demands. During those decades, for instance, the campaign slogan "*love doesn't kill*" referred to the worryingly frequent cases of femicide³, to call for public protection.

Subsequently, in the 1980s, struggles for the re-democratization in Brazil led to the social construction of a new political order, which, among other significant achievements, included the reduction of inequality between men and women, then enshrined in the Federal Constitution⁴. Such advancements were inscribed into the 1988 Constitution, through the re-interpretation of traditional civil institutions such as marriage, family, and succession, which resulted in the adoption of public policies aimed at tackling domestic violence, social prejudice, and fostering public health upon the creation of State Councils on Women's Conditions (CECF) and the first policing stations specialized in defending women, as spearheaded by the Brazilian state of São Paulo.

Similarly, at the federal level, the National Council for Women's Rights (CNDM) was inaugurated to coordinate women's movements and their mobilizations throughout the constitutional process (1985-1988). In total, twenty months of intense debates aimed at re-democratizing the country and conceiving a brand new constitutional order constructed upon social rights. The particular agenda of women became known as the "*lipstick lobby*," which culminated in the drafting of the "Brazilian Women's Letter to the Constituents,"⁵ formally delivered to the National Congress on 26 March 1987.

The 1988 Constitution instigated significant advancements of women's struggles, such as formal equality between men and women; the expansion of women's civil, social, and economic rights; the equality of rights and duties within conjugal relationships, without a necessary link to marriage; the establishment of the principle of non-discrimination based on sex; the prohibition of discrimination against women in the labor market; and the establishment of rights in the sexual and reproductive fields, among other achievements detailed further on.

Thus, throughout the 1990s, part of the consolidation of this novel legal reality was gradually implemented with significant progress in the protection and promotion of women's rights. In the early 2000s, especially between 2003 and 2016, during the governments of the Workers' Party (PT), the feminist movement's agenda experienced a remarkable boost, achieving important victories, including the creation of public

³ Mention of the case of socialite Ângela Diniz, who was murdered by her husband, Raul Fernando do Amaral Street, in Rio de Janeiro on December 30, 1976.

⁴ TOSCANO DE BRITO, L. M. *Uma encoraja a outra: da inserção das mulheres potiguares no espaço político ao perfil da candidata eleita Natal/RN 2023*. Monografia da UFRN, 2023. Available in: https://repositorio.ufrn.br/bitstream/123456789/54385/1/Insercaomulherespotiguares_Brito_2023.pdf. Accessed: 10 ago. 2024.

⁵ CONSELHO NACIONAL DOS DIREITOS DA MULHER. *Carta da mulher brasileira aos constituintes*. Brasília-DF, 1987. Available in: https://www2.camara.leg.br/atividade-legislativa/legislacao/Constituicoes_Brasileiras/constituicao-cidada/a-constituente-e-as-mulheres/arquivos/Constituente%201987-1988-Carta%20das%20Mulheres%20aos%20Constituintes.pdf. Accessed: 9 ago. 2024.

policies aimed at gender equality and protection against domestic violence, areas in which, despite formal legislative guarantees, no satisfactory political measures materially ensured such rights.

During this period, once discriminated feminist demands began to receive greater attention and support, thus reflecting a commitment to a more just and equal society, as stipulated in the Constitution. Notably, during this phase, a more favorable environment for the debate and implementation of new gender equity measures contributed to institutionalizing new rights in a positive cyclical construction, as delineated below.

However, following the impeachment of President Dilma Rousseff in 2016, and until the return of the current administration in 2023, Brazil experienced a profound decline in the progressive feminist agenda, especially women's movements and other "minoritized majorities," a reality that deeply impacted the effectiveness of human rights in Brazil as a whole. After the political removal of the country's first female president, a substitute government followed suit, and in January 2019, the far-right conservative Jair Bolsonaro assumed office. Under his administration, the women's agenda was placed under the Ministry of Women, Family, and Human Rights (MDH), led by evangelical pastor Damares Alves.

Despite the apparent progress marked by the establishment of a specific ministerial department focused on women's issues, anachronism prevailed due to the prioritization of the family axis. In the Ministry of Women, Family and Human Rights (MDH), the emphasis on family was aligned with the most religious and conservative aspects of the term, namely monogamous relationships, heterosexual couples, and male privilege. Consequently, this focus led to the intentional dismantling of established public policies supporting women, particularly Black and poor women, as well as the LGBTQIA+ population and other vulnerable social groups.

Starting in 2020, the situation worsened due to two main reasons. First, the COVID-19 pandemic, which officially lasted from March 2020 to May 2023, as declared by the World Health Organization (WHO). Additionally, the stimulus to guns and fire weapons ownership, a priority goal of the then federal government, resulted in increasingly armed men within households, leading women to suffer multiple forms of abuse, progressively more subject to femicide and overall indifference caused by budgetary cuts in government social programs, alongside persistent inequality in the workplace exacerbated by the pandemic.

Despite the apparent progress of establishing a specific ministry for women's issues, anachronism prevailed due to the prioritization given to the family axis. Within the Ministry of Women, Family, and Human Rights (MDH), the primacy of the family theme was accompanied by the more religious and conservative aspects of the term, namely monogamous relationships, heterosexual couples, and male privilege. Consequently, there was a deliberate dismantling of established public policies for women, especially Black and poor women, as well as for the LGBTQIA+ population and other vulnerable social groups.

In 2022, new presidential elections were held, resulting in the election of former President Lula da Silva for a non-consecutive third term, with his inauguration taking place in January 2023. The demands of the women's movement gained renewed institutional momentum, aiming to establish themselves amid adverse circumstances of rights losses and dismantling. A general overview of the current policies highlights⁶, among other issues, efforts to confront and prevent violence; the promotion of women's work and financial autonomy⁷; the creation of programs and projects related to health, education, housing, and professional qualification; the expansion of spaces in sectors

⁶ MINISTÉRIO DAS MULHERES. *79 ações federais indicam conquistas e avanços nas políticas para mulheres*. 2024. Available in: <https://www.gov.br/mulheres/pt-br/central-de-conteudos/noticias/2024/marco/79-acoes-federais-indicam-conquistas-e-avancosnaspoliticas-para-mulheres>. Accessed: 8 ago. 2024.

⁷ MINISTÉRIO DAS MULHERES. *Principais ações de 2023*. 2023. Available in: https://www.gov.br/mulheres/pt-br/centraldeconteudos/noticias/2024/fevereiro/Relatorio_Principais_Acoes_2023_Ministrio_das_Mulheres.pdf. Accessed: 10 ago. 2024.

such as family farming; and the adoption of legislative changes, such as the enactment of the Equal Pay Act - Law No. 14,611/2023⁸, and new provisions in the Maria da Penha Law - Law No. 14,674/2023⁹, including housing assistance for victims of domestic violence. These initiatives collectively aim to enhance the guarantee of rights and access to citizenship.

This brief overview reveals that, within a short period, the Brazilian state has fluctuated dangerously in its trajectory towards consolidating women's rights. Recently, Brazil transitioned from being a driver of change and a promoter of social improvements, compliant with constitutionally mandated policies, to becoming a proponent of reactionary and conservative agendas, often illegal. Currently, the nation is once again committed to an agenda that ensures rights through comprehensive governmental actions. This pendulum movement understandably generates insecurity. Against this backdrop, it is important to mention that the objective of this article is to provide a focused examination of constitutional issues, tracing the journey from the 1988 Constitution to the recent setbacks, in order to highlight the need for the reconstruction and/or consolidation of rights as state policies, rather than government policies.

Considering the context provided, from a methodological perspective, this study is characterized as applied, historical, and critical, engaging in dialogue with facts, concepts, norms, and actions. It examines practical issues identified in Brazilian politics during the specified period, particularly those impacting women's rights and their guarantees¹⁰. Through a theoretical approach, focusing on the analysis and interpretation of events in relation to the realization of women's social rights, the study aims to construct a well-founded dialogue. The goal is both descriptive and interpretative, seeking to identify and analyze the main fluctuations in the consolidation of women's rights in the country over recent decades. This aims to underscore the need for implementing state policies that reduce the dependence of rights on the ideological inclinations of the current governing administration.

This approach can be delineated by the qualitative aspect of the investigation, considering the dynamic relationship between the rise and decline of women's rights in Brazil. It also employs a deductive method, relying on general analyses to reach specific conclusions. Regarding formal procedures, the research employs bibliographic and documentary study techniques, involving the analysis of book chapters, articles, theses, dissertations, and news reports. These aspects will be explored further in the following sections.

⁸ Law n. 14,611 of 2023, known as the "Equal Pay Law," primarily aims to establish regulations to ensure wage equity between men and women in Brazil. In addition to mandating equal pay for equal work, performed under equivalent conditions and with similar qualifications, the law requires companies to implement practices that promote equitable wage policies. This action will facilitate the verification of companies' wage policies in accordance with the established norms, with mechanisms for monitoring and enforcing penalties on companies that fail to comply with the requirements, including fines and other sanctions. Finally, the law encourages increased representation of women in leadership and management positions, enabling more comprehensive equality of opportunities. BRASIL. *Lei n. 14.611, de 03 de julho de 2023*. Brasília-DF, 2023. Available in: https://www.planalto.gov.br/ccivil_03/_ato2023-2026/2023/lei/l14611.htm. Accessed: 05 agu. 2024.

⁹ Regarding Law n. 14,674/23, also known as Maria da Penha Law (initially drafted in 2006 as Law n. 11,340), its main objective is to reinforce protective measures for women in situations of domestic and family violence. Among its various provisions, the possibility of granting rental assistance to women victims of violence who need to distance themselves from their aggressors stands out. This measure provides financial support to ensure safe housing, a feature implemented in the latest amendment of 2023. Additionally, the law provides for the expansion of emergency protective measures, the creation of specialized assistance networks, and specific actions to ensure the care and safety of minors in contexts of domestic violence. BRASIL. *Lei n. 14.674, de 14 de setembro de 2023*. Brasília-DF, 2023. Available in: https://www.planalto.gov.br/CCIVIL_03/leis/L14674.htm. Accessed: 05 agu. 2024.

¹⁰ CARLOS GIL, A. *Métodos e Técnicas de pesquisa social*. Atlas, São Paulo, 2008, p. 6.

2. Brief history of women's achievements: the ambiguous relationship between the Federal Constitutions and the 1916 Brazilian Civil Code

The historical process leading to the text of the so-called "Citizen Constitution" of 1988 was preceded by incremental achievements documented in previous constitutions throughout the 20th century, specifically those of 1934, 1937, 1946, and 1967. In each instance, every step taken was a result of the demands made by the emerging women's movement, which resiliently planted seeds in what was often unwelcoming terrain.

The landmark 1934 Constitution was instrumental in securing women's right to vote in Article 109¹¹. Although pioneering, this provision faced contradictions within the final draft of the constituent document, as Article 121 removed the obligation for women to vote, while maintaining this duty only for men. Therefore, despite the extension of the voting guarantee, there was a significant practical differentiation, as the voluntary nature of women's voting was influenced by other associated social issues. It is noteworthy that this ambiguity was supported by the then-current Civil Code¹², which was patriarchal, property-oriented, and conservative. Nevertheless, the 1934 Constitution introduced unprecedented provisions for women, such as the right to equal pay, the prohibition of women working in unhealthy conditions, and the allowance for postpartum rest.

Despite these advances, including the elimination of gender distinctions in the constitutional text, the prevailing Civil Code imposed substantial restrictions on women's individual freedom, directly affecting property and economic matters related to labor and other areas. This aspect deserves particular attention, considering that economic freedom provides women with financial independence from parents and spouses. Hence, preventing women from fully enjoying fundamental rights derived from the principles of equality and non-discrimination due to financial control effectively keeps them in a state of dependency.

Subsequently, in 1937, with the establishment of the "*Estado Novo*", the new constitution, inspired by the rise of totalitarian regimes in Europe, was revised to be even more restrictive of individual rights in general, moving away from the guarantee of individual rights and promoting state-controlled social actions. Notable examples include the implementation of the death penalty (Article 13), restrictions on the possibilities of association (with certain provisions being revoked in 1942, such as Article 122, paragraphs 2, 8, and 10), and the prohibition of the formation of political parties.

Later, in 1946, a new constitution was promulgated during the presidency of Eurico Gaspar Dutra, the first president elected after the authoritarian period led by Getúlio Vargas. Among the social changes, significant developments for feminist causes included the restoration of individual freedoms and the possibility of association. In this new constitution, it is notable that the phrase "without distinction of sex" was removed from Article 141, paragraph 1, indirectly indicating that, despite the restoration of rights, various distinctions and limitations persisted in the legislation, hindering the realization of gender equality in the workplace¹³ and women's economic freedom.

¹¹ The 1934 Constitution was enacted during the government of President Getúlio Vargas, in the period known as the "provisional government," a term used to describe the first phase of the Vargas Era following the 1930 revolution. Article 109 of the Constitution stated: *Registration and voting are mandatory for men, and for women, when they hold a paid public office, under the sanctions and exceptions determined by law.* BRASIL. *Constituição dos Estados Unidos do Brasil*. Rio de Janeiro-RJ, 1934. Available in: https://www.planalto.gov.br/ccivil_03/constituicao/constituicao34.htm. Accessed: 21 jul. 2024.

¹² "[...] since the Empire, the political exclusion of women occurred without being explicitly stated in legal texts. In 1932, at first glance, women would have been equated with men. However, the combination of voluntary voting and the prevailing Civil Code reveals that this right could only be exercised if authorized by the head of the family, the husband." LIMONGI, F.; SOUZA OLIVEIRA, J. D.; TOMÉ SCHMITT, S. "Sufrágio universal, mas... só para homens: o voto feminino no Brasil". *Revista de Sociologia e Política*, 27, 2019, p. 1-23.

¹³ "In the labor context, the regulations specifically addressed formal work, excluding the situation of informal and rural workers. "It is evident that the focus of women's protection was directed at women who worked in the formal labor market, which represented a very small minority. Women

It is crucial to recall that the Civil Code—Law No. 3,071, in force at that time—dated back to 1916¹⁴. Among the regulations applicable in 1946 concerning women's issues was the Civil Code, which required women to obey their husbands' commands. According to Article 233, items I to IV, husbands managed their wives' property and had to authorize their choice of profession¹⁵. Therefore, although the 1946 Constitution did not explicitly mention the marital submission of married women, the Civil Code contained provisions that endorsed the limitation of women's freedom of choice and control over their own lives as wives. This situation was not significantly different for single women, as even before marriage, institutionalized inequality prevailed. For instance, grooms could demand proof of marital virginity from brides in cases of doubt for the continuation of the marriage, without any reciprocal requirement¹⁶.

Subsequently, from 1964 to 1985, Brazil was under military rule, which led to the establishment of a new constitution in 1967. This constitution was successively amended by institutional acts, most notably Institutional Act No. 5 of 1969, which intensified the authoritarian nature of the regime, severely impacting individual freedoms. Given that the focus of this study is on the advancement of feminist issues and women's movements, the analysis then shifts to the 1988 Constitution, known as the "Citizen Constitution," which was responsible for restoring the democratic agenda and implementing positive changes in women's rights and guarantees, emphasizing gender equality and the strengthening of institutional mechanisms that ensure the pursuit of new rights.

3. Constituent achievements of the so-called “lipstick lobby” and rights enshrined in the 1988 Federal Constitution

The article 5 of the Federal Constitution of 1988¹⁷ enshrines the fundamental principle of legal equality between men and women, which is safeguarded as an immutable clause and serves as a reference point for other constitutional provisions, unfolding into new rights and legal guarantees, all of which are intertwined with gender issues. The content of this provision, which may seem redundant at first glance, holds immense importance as a democratic achievement for the country, as it simultaneously encompasses a solid array of fundamental rights and guarantees and acts as a beacon for the protection of individual and collective rights, promoting justice and equality between the sexes in the pursuit of a pluralistic and diverse society.

engaged in informal work, those who lived and worked in rural areas, and those dedicated to family and household care were not given special attention, let alone specific protective measures." PRADO BITTENCOURT, R. D. "A mulher na legislação brasileira: uma análise histórica". *Revista reflexão e crítica do direito*, 2022, 1, p. 278-297.

¹⁴ QUADRO COMPARATIVO. *Código Civil 1916*. 2003. Available in: <https://www2.sena.do.leg.br/bdsf/bitstream/handle/id/70309/704509.pdf>. Accessed: 6 ago. 2024.

¹⁵ Article 233: The husband is the head of the marital society. His responsibilities include I. The legal representation of the family. II. The administration of both common property and the wife's personal property, which the husband is responsible for managing according to the matrimonial regime adopted or the prenuptial agreement (Articles 178, § 9º, n. I, c, 274, 289, n. I, and 311). III. The right to establish and change the family domicile (Articles 46 and 233, n. IV). IV. The right to authorize the wife's profession and her residence outside the marital home (Articles 231, n. II, 242, n. VII, 243 to 245, n. II, and 247, n. III). BRASIL. *Constituição dos Estados Unidos do Brasil*. Rio de Janeiro-RJ, 1934. Available in: https://www.planalto.gov.br/ccivil_03/constituicao/constituicao34.htm. Accessed: 21 jul. 2024.

¹⁶ PRADO BITTENCOURT, R. D. "A mulher na legislação brasileira: uma análise histórica". *Revista reflexão e crítica do direito*, 2022, 1, p. 278-297.

¹⁷ Article 5 of the 1988 Federal Constitution: All persons are equal before the law, without distinction of any kind, guaranteeing to Brazilians and foreign residents in the country the inviolability of the right to life, liberty, equality, security, and property, as follows: I. Men and women have equal rights and obligations, under the terms of this Constitution; [...]. BRASIL. *Constituição da República Federativa do Brasil de 1988*. Brasília-DF, 1988. Available in: https://www.planalto.gov.br/ccivil_03/constituicao/constituicao.htm. Accessed: 22 ago. 2024.

The process of re-democratization and the expansion of citizenship embraced the true equality of rights between men and women. Collective awareness, political struggles, and the creation or amendment of norms that promote or protect women's rights were intelligently transformed into objectives of the feminist movement, aimed at securing amendments and guarantees for both existing and emerging rights, defined through the joint efforts of social movements, society, and the State.

To reach the Constituent Assembly, the preparation of the agenda was led by the National Council for Women's Rights, established in 1985 through the campaign "Women and the Constituent Assembly," which engaged the country in opening channels of communication between the feminist movement and political decision-making mechanisms. It is worth noting the astuteness of the slogan that underscored the fight for representation, "A Constituent Assembly that truly counts must include women's voices." At that time, rights to education, health, and a family life free from trauma were grounded in fundamental and human principles, such as legal equality¹⁸.

As stated, by affirming legal equality between men and women, other feminist achievements were guaranteed, further reflected in the constitutional text. In the realm of labor, Article 7, section XXX, of the Constitution prohibits discrimination in wages, job functions, and admission criteria based on sex, age, color, or marital status. Similarly, section XXV of the same article provides for free assistance to children and dependents from birth until the age of five in daycare centers and preschools. Another area deserving constitutional isonomic protection is domestic work, which, due to the sexual division of labor and structural racism, predominantly affects black women. Thus, the 1988 Constitution ensured, among other rights, a 120-day maternity leave without loss of employment or salary, social security rights, minimum wage, weekly rest, and paid vacation.

In the social security context, the Constitution similarly guaranteed retirement under the general social security system, with 35 years of contribution required for men and 30 years for women, and a minimum retirement age of 65 for men and 60 for women—explicitly recognizing women's dual work burden. This limit was reduced by five years for both male and female rural workers¹². In a similar vein, concerning the social function of property, Article 183 of the Constitution granted title to land ownership and use rights, both in urban and rural areas, to men and women, regardless of marital status. This was a victory for the Rural Women Workers' Movement, which represented leaseholders, salaried workers, union members, or agrarian reform settlers, who often lost their land when abandoned by their partners or upon becoming widowed.

Special attention should be given to the advances made in Family Law. Article 226 of the Constitution provided the family unit (understood broadly and breaking away from the notion of man versus woman) with specific state protection by creating mechanisms to prevent violence within family relationships. This measure represented a significant legal improvement in controlling domestic violence. For the first time, such constitutional protection was granted as a duty and responsibility of the State. Additionally, the 1988 Constitution abolished paternal authority by stipulating that family planning is a free decision of the couple, thereby eliminating the notion of the man as the "head of the family" and ensuring that decisions would be made jointly or referred to the judiciary in cases of disagreement.

These and other rights demonstrate the constitutional guarantee of equal treatment for men and women, as well as differentiated treatment for women when necessary, under the principle of non-discrimination. This approach also serves as a form of positive

¹⁸ The National Archives holds in its collection documents produced and/or accumulated by the Council from 1974 to 2006, under the code EZ. These include approximately 27 meters of textual documents, such as projects, reports, meeting minutes, brochures, posters, correspondence, newspaper articles, and more, in addition to 2,000 photographs and moving images. These documents highlight women's participation in the Constituent Assembly of 1987/88, as well as women's struggle for their rights over the past decades. MINISTÉRIO DA GESTÃO E DA INOVAÇÃO EM SERVIÇOS PÚBLICOS. *Lobby das meninas: a mulher na constituinte de 1987/88*. 2020. Available in: <https://querepublicaessa.an.gov.br/index.php/que-republica-essa/assuntos/temas/213-lobby-das-meninas>. Accessed: 23 agu. 2024.

discrimination, capable of promoting and achieving gender equality¹⁹. Thus, the same factor of "sex," which should not be used as a vector of negative discrimination that disadvantages women, should, through the action of equalizing and inclusive legal norms, be used to mitigate social, political, economic, cultural, and legal disparities between men and women.

In this perspective, Boaventura Santos shows great sensitivity when discussing the importance of equal or different treatment accorded to individuals regarding human rights. He states, "We have the right to be equal when our difference makes us inferior. We have the right to be different when our equality strips us of our character." He concludes by highlighting the ethical and legal imperative for adopting a projection of legal equality "that recognizes differences" as well as differentiation "that does not produce, feed, or reproduce inequalities."²⁰

Among the innovations, there was an expansion and/or creation of new civil rights (individual or personality rights, related to one's name, family status, and others), economic and social rights (related to housing, labor, education, family farming, and others), as well as cultural rights. All these efforts contributed to advances that resonate today, as seen in the 2030 Agenda of the United Nations, signed in 2015 by more than 190 countries, with 17 Sustainable Development Goals (SDGs) and 169 targets. These goals encompass social, economic, and environmental dimensions for the development of society, with action plans to promote gender equality and combat climate change and its impacts, such as food insecurity, job loss, multiple forms of violence, and their impact on health²¹.

In this context, it is important to mention Constitutional Amendment 78/2013, known as the Women's PEC, which guaranteed domestic workers, both male and female, rights such as a national minimum wage, unemployment insurance, wage irreducibility, the 13th salary, wage protection, daily and weekly working hour limits, paid weekly rest, paid overtime, annual vacation, maternity leave, paternity leave, proportional notice, application of collective agreements or conventions, FGTS (Guarantee Fund for Time of Service), and others. In 2015, Complementary Law 150 effectively regulated these rights²².

Social movements, especially the feminist movement, gained momentum during the 1980s and 1990s, with effects extending into the current millennium, achieving the broadening and consolidation of gender issues. When asked about the usefulness of expanding gender possibilities, Judith Butler reminds us that if the cause of unequal and unjust human relationships and exclusionary institutions lies in an exploitative system

¹⁹ ANJOS COSTA, W. O. D. S. D.; BOSIO CAMPELLO, L. G. "A 2030 com foco na efetivação do direito humano à igualdade das identidades de gênero e seus reflexos para o greening universitário". *Cadernos de Direito Actual*, 16, 2021 pp. 46–69.

²⁰ SOUZA SANTOS, B. D.; ARRISCADO NUNES, J. "Introdução: para ampliar o cânone do reconhecimento, da diferença e da igualdade". *Revista Reconhecer para libertar: os caminhos do cosmopolitismo multicultural*, 2003, p. 25-68.

²¹ The theme chosen by the United Nations for International Women's Day 2022 was "Gender Equality Today for a Sustainable Tomorrow," with a focus on promoting the intersection between gender equality and sustainability, highlighting the vital role of women, particularly environmental activists, in the fight against climate change. The relevance of this theme aligns with the 2030 Agenda and its Sustainable Development Goals (SDGs), which aim to promote gender equality and address climate change. To achieve these goals, it is essential to strengthen social movements and implement public policies that encourage female participation in the pursuit of sustainable development. FUNDO BRASIL. *Não existe desenvolvimento sustentável sem igualdade de gênero*. 2023. Available in: https://www.fundobrasil.org.br/blog/nao-existe-desenvolvimento-sustentavel-sem-igualdade-degenero/?gclid=Cj0KCCQjwof6WBhD4ARIsAOi65aggJWJSHI9LQ0Gjmb4Nsc22bVjVNMjLSJgolmatcM6p5I5CYgtNAlGaAtKWEALw_wcB. Accessed: 6 ago. 2024.

²² Research data from Ipea in 2019 indicate that only 28.3% of people in domestic work had a formal employment contract. INSTITUTO DE PESQUISA ECONÔMICA APLICADA. *Os desafios do passado no trabalho doméstico: reflexões para o caso brasileiro a partir dos dados da PNAD contínua*. 2019. Available in: https://repositorio.ipea.gov.br/bitstream/11058/9538/1/td_2528.pdf. Accessed: 20 ago. 2024.

that layers oppressions, with women often at the bottom, marked by variations such as race, ethnicity, gender identities, sexual orientation, and numerous other identities and diversities, which bear the greatest burden of income concentration, violence, and social exclusion, then the gender perspective must be highlighted—it is “not a luxury, but as crucial as bread”²³.

4. Recent setbacks and resurgence of women’s policies and rights in Brazil

Historically and institutionally, regarding gender issues, the election of Lula da Silva in 2022 brought innovations compared to his previous terms, both in the definition of the ministerial body and the creation of a specific ministry. Previously, he had established a secretariat with ministerial status. From 2003 to 2016, due to this model, women’s secretariats were replicated in the structures of progressive state and municipal governments, increasingly organizing and integrating the feminist movement into administrative management, with women occupying key positions.

In the early stages, female managers faced typical challenges of public administration, such as the lack of physical infrastructure and financial and human resources. Recently, however, following the election of Jair Bolsonaro and the creation of the Ministry of Women, Family, and Human Rights under pastor Damarens Alves, the situation has worsened considerably. In fact, the existing bureaucratic and administrative disruptions were compounded by a new element: the confrontation of a form of conservative political activism or reversed protagonism, fueled by prejudices, the denial of identity issues, and a rejection of politics itself, undermining the political gains made by women through years of advocacy and hard work.

In 2019, within the ministry, the gender perspective was disregarded in the adoption of public policies, a reality fraught with significant risks for the democratic process and the rights of so-called minoritized majorities. Given the context of violence against women and social exclusion in Brazil, the state's involvement and investment in public equity policies are indispensable. Hence, the national situation began to deteriorate. On one hand, the coup in 2016 accelerated the dismantling of the Welfare State through the implementation of an economic policy driven by false fiscal austerity measures²⁴. On the other hand, this new ministry actively dismantled and destroyed public policies crucial to advancing identity and gender issues. For instance, Ordinance 457/2021, published by the Ministry of Women, Family, and Human Rights (MDH), mandated a review of the National Human Rights Plan (PNDH) but excluded the historical participation of civil society in the debate²⁵.

Following the impeachment of Dilma Rousseff, the economic policy regressions worsened under Michel Temer’s administration, marked by the approval of Constitutional Amendment 95/2016, which imposed a cap on public spending. This cap

²³ LE MONDE DIPLOMATIQUE BRASIL. *Igualdade de gênero não é um luxo, é tão crucial quanto pão*. 2021. Available in: <https://diplomatie.org.br/igualdade-de-genero-nao-e-um-luxo-e-tao-crucial-quanto-pao/>. Accessed: 8 ago. 2024.

²⁴ BRASIL. *Emenda Constitucional n. 95 de 2016*. Brasília-DF, 2016. Available in: https://www.planalto.gov.br/ccivil_03/constituicao/Emendas/Emc/emc95.htm. Accessed: 23 ago. 2024.

²⁵ An article published by Portal Catarinas highlights a meeting of activists that took place in response to the setbacks in the National Human Rights Program (PNDH) promoted by Damarens Alves's administration. On this occasion, the event brought together organizations and activists concerned about the deterioration of human rights policies in Brazil, creating a platform to discuss and express opposition to the measures adopted, which, according to the participants, weakened human rights protection and led to regressions in the social justice agenda. PORTAL CATARINAS. *Damarens Alv(o)s: ativistas se reúnem contra retrocessos no Programa Nacional de Direitos Humanos*. 2021. Available in: <https://catarinhas.info/damarens-alves-ativistas-se-reunem-contra-retrocessos-no-programa-nacional-de-direitos-humanos/>. Accessed: 6 ago. 2024. Likewise, the article deserves mention "A sinistra Damarens e seu projeto de destruição". CARTA CAPITAL. *A sinistra Damarens e seu projeto de destruição*. 2022. Available: <https://www.cartacapital.com.br/opiniao/a-sinistra-damarens-e-seu-projeto-de-destruicao/>. Accessed: 20 ago. 2024.

strangled the budget for social sectors²⁶ like health, education, and social protection, under the pretext of not exceeding fiscal limits that treated social investment as an expense or expenditure. Subsequently, a series of socio-economic dismantling actions followed, including labor reform (Law 13,467/2017)²⁷ and pension reform (Constitutional Amendment 103/2019), which curtailed rights that also extended to women. As a result, the progressive and egalitarian trajectory that had been assured for women and minorities was abruptly interrupted before it could complete its course.

In a broader context, beyond the cuts to socio-economic policies, a type of religious anti-feminism emerged, coupled with pseudo-patriarchal values reminiscent of the Middle Ages. In essence, then-minister Damares Alves, now a senator for Brasília DF, criticized what supporters of the Bolsonaro government called "gender ideology," a pejorative term opposing the concept of gender as understood by the feminist movement—not as biological sex but recognizing the differentiation in the social perception of men's and women's abilities as culturally constructed. Conservative sectors of society use this term to oppose school activities that address gender issues and related topics, such as sexuality—those who advocate for gender discussions in schools reject the term "gender ideology" and prefer "gender education" or similar terms. In a broader context, beyond the cuts to socio-economic policies, a type of religious anti-feminism emerged, coupled with pseudo-patriarchal values reminiscent of the Middle Ages. In essence, then-minister Damares Alves, now a senator for Brasília DF, criticized what supporters of the Bolsonaro government called "gender ideology," a pejorative term opposing the concept of gender as understood by the feminist movement—not as biological sex but recognizing the differentiation in the social perception of men's and women's abilities as culturally constructed. Conservative sectors of society use this term to oppose school activities that address gender issues and related topics, such as sexuality—those who advocate for gender discussions in schools reject the term "gender ideology" and prefer "gender education" or similar terms²⁸.

Similarly, the minister supported homeschooling and endorsed the 'School Without Party' proposal. Homeschooling involves a form of education where parents or guardians take on the formal education of their children at home, without requiring attendance at traditional private or public educational institutions. This practice, widely debated, has generated controversy and sparked discussions about the role of the state in education

²⁶ The absurdity of this Constitutional Amendment is in defining public investments in social areas as "expenditures." Article 107: Individual limits are established for primary expenditures for each fiscal year: I. Of the Executive Branch; II. Of the Supreme Federal Court, the Superior Court of Justice, the National Justice Council, the Labor Courts, the Federal Courts, the Military Justice of the Union, the Electoral Courts, and the Courts of the Federal District and Territories, within the Judiciary Branch; III. Of the Federal Senate, the Chamber of Deputies, and the Federal Court of Accounts, within the Legislative Branch; IV. Of the Public Prosecutor's Office of the Union and the National Council of the Public Prosecutor's Office; V. Of the Federal Public Defender's Office. § 1. Each of the limits referred to in the caput of this article shall be equivalent to: I. For the 2017 fiscal year, the primary expenditure paid in the 2016 fiscal year, including paid outstanding obligations and other operations affecting the primary result, adjusted by 7.2% (seven-point two percent); and II. For subsequent fiscal years, the limit for the immediately preceding fiscal year, adjusted by the variation of the Broad Consumer Price Index (IPCA), published by the Brazilian Institute of Geography and Statistics, or another index that may replace it, for the twelve-month period ending in June of the year preceding that referred to in the budget law. BRASIL. *Emenda Constitucional n. 95 de 2016*. Brasília-DF, 2016. Available in: https://www.planalto.gov.br/ccivil_03/constituicao/Emendas/Emc/emc95 .htm. Accessed: 23 agu. 2024.

²⁷ PORTAL JUSTIFICANDO. *Acesso à Justiça: o drama da classe trabalhadora não começou com a reforma trabalhista*. 2017. Available in: <https://www.jusbrasil.com.br/noticias/ace sso-a-justica-o-drama-da-classe-trabalhadora-nao-comecou-com-a-reforma-trabalhista/53501132> 1. Accessed: 15 agu. 2022.

²⁸ SUPORTEPRESS. *Ideologia de gênero: o que é e qual a polêmica por trás dela?* Politize!, 2018. Available in: <https://www.politize.com.br/ideologia-de-genero -questao-de-genero/>. Accessed: 23 agu. 2024.

and family rights. Additionally, the proposal aimed to limit what would be considered "political and ideological indoctrination" in schools, leading to a polarizing public debate and, consequently, highlighting these issues as significant within the Ministry of Education during that period.

The 'School Without Party' project, not exactly proposed but ratified by the Ministry of Education under Bolsonaro's government, sought to combat what its supporters viewed as "indoctrination" in schools, especially concerning political and moral issues. The project, clearly opposing Paulo Freire's pedagogical vision of "education for domestication" versus "education for freedom," or "education for the object-man versus education for the subject-man,"²⁹ suggested interventions like posting signs in schools and universities with guidance on students' rights not to be exposed to content they considered inappropriate or "ideological," and suggested laws prohibiting teachers from disseminating "political and ideological views"³⁰.

The Ministry of Family also proposed adopting the Statute of the Unborn, which would grant legal personality to the fetus while criminalizing abortion. Additionally, it is worth noting, following Pierre Bourdieu's teachings, that the Ministry advocated for what it termed a "religious government"³¹, whatever that may mean³². Thus, the Ministry was committed to promoting measures that aimed to restrict access to reproductive health and contraception services, aligning with a conservative agenda seeking to redefine public health policies based on religious principles.

There was a clear promotion of the image of modest and feminine women requiring protection and care, conforming to a specific standard, which was the only focus of support from Bolsonaro's government policies. Taciana Gouveia highlights that the protected and cared-for woman was generally white, cisgender, heterosexual, and a mother, meaning that the MDH ideologically reduced the concept of family, in direct opposition to the constitutional provisions for expanding and embracing all forms of family grouping through diversity. This illustrated the significant and subtle dominance of the government's intervention strategy in the field of women's rights, driven by fundamentalist evangelical logic³³.

To illustrate, during the pandemic, amid rising domestic violence cases, the MDH promoted a campaign in July 2020 with the slogan "Report domestic violence—For some families, isolation is becoming even more difficult." This reveals a connection with the Ministry of Economy's determination to avoid social isolation, a health measure recommended by the World Health Organization to prevent virus transmission. On the other hand, as Cibely Silva and Jorge Henrique Barbosa³⁴ pointed out, the supposedly

²⁹ NEVES FREIRE, P. R. *Pedagogia do oprimido*. Paz & Terra, São Paulo, 2019.

³⁰ Since the Brazilian Constitution enshrines the freedom to learn, teach, and conduct research, as well as the pluralism of ideas and pedagogical approaches, the Supreme Federal Court ruled that Law No. 7,800/2016 of the State of Alagoas was unconstitutional due to a 'violation of the right to education with the full and emancipatory scope conferred by the Constitution,' thereby settling the matter. SUPREMO TRIBUNAL FEDERAL. *Ação direta de inconstitucionalidade n. 5537, 2016*. Available in: <https://portal.stf.jus.br/processos/detalhe.asp?incidente=4991079>. Accessed: 25 ago. 2024.

³¹ PATTARO AMARAL, F. "La estética femocrática negativa en el gobierno Bolsonaro en Brasil: Michelle Bolsonaro y Damares Alves". *Revista IUSTA*, 2023, 58, p. 25-40.

³² Best described in the author's words in the following excerpt: for whom, [...] the Church, burdened by the deep anti-feminism of a clergy ready to condemn all female faults against decency, especially regarding clothing, and to propagate, from the height of its wisdom, a pessimistic view of women and femininity, explicitly inculcates (or inculcated) a familial moral code, completely dominated by patriarchal values and primarily by the dogma of women's innate inferiority. Furthermore, it acts, in a more indirect way, on the historical structures of the unconscious [...]. BOURDIEU, P. *A dominação masculina*. Bestbolso, 2017.

³³ BÖLL STIFTUNG, H. *Políticas para as mulheres no governo Bolsonaro: notas para reflexão*. 2021. Available in: <https://br.boell.org/pt-br/2021/02/26/politicas-para-mulheres-no-governo-bolso-notas-para-reflexao>. Accessed: 9 ago. 2024.

³⁴ EUGÊNIA SILVA, C.; HENRIQUE BARBOSA, J. "Análise do discurso oficial de lançamento da campanha do governo Federal contra a violência doméstica no contexto da pandemia do COVID-19". *Revista Espaço Acadêmico*, 224, 2020.

limited rationale for “valuing” women and combating this form of violence was not centered on the woman herself but on the family, highlighting the conservative and oppressive undertone of this strategy. Similarly, the word “woman,” singular or plural, was absent from the slogan, shifting the suffering caused by violence to the families. The authors also noted that the MDH’s advertising materials included images of female aggressors, subtly implying (without directly mentioning it) that women can also be perpetrators of abuse in the home and need to stop “victimizing themselves.”

Attention should be paid to the trajectory of policy decline and value reversal. What was initially exacerbated by so-called ultraliberal necropolitics³⁵ (from 2016 onwards), affecting economic and social rights, was further aggravated by the government’s authoritarian and conservative ideological stance, particularly by the MDH. In 2020, this situation was intensified by the COVID-19 pandemic, a process that especially impacted women, widening the gap of social injustice.

As mentioned in the introduction, the pandemic exponentially increased cases of abuse, general domestic violence, and violence against women³⁶, without effective public policies and governmental measures being adopted to address the issue. Another negative effect of the pandemic on women’s lives is related to unemployment—according to the Continuous PNAD survey by IBGE, 8.5 million women had left the workforce in the last quarter of 2020, compared to the same period the previous year³⁷. A third impact group involves the new jobs obtained during the pandemic and the level of emotional stress, including cases of depression and anxiety³⁸.

After the pandemic and the Bolsonaro government, a form of democratic relief is underway, following the defeat of the authoritarian project in 2022. Among other measures, the following actions have been taken to resume policies and rights for women: reinstatement of the ‘Women Living Without Violence’ program; publication of Decree No. 11,430, which stipulates that at least 8% of job positions in contracts with the public administration are reserved for women experiencing violence; and publication of Decree No. 11,432, which regulates the Menstrual Health Protection and Promotion Program³⁹.

³⁵ A term attributed to Achille Mbembe, based on Michel Foucault’s concept of biopower. It raises questions about whether or not the State, under the discourse of law and order, is granted a kind of ‘license to kill.’ The expression, which recently emerged and gained notoriety, refers to the use of the State’s social and political power to dictate how some people can live and how others must die, exerting control over individuals’ lives—who is considered worthy of living and who may be exposed to death or conditions of life that inevitably lead to death. A recent example of necropolitics in Brazil occurred in the context of the pandemic, although it is recurrently exercised in the context of penal and penitentiary issues, as well as in the cases of poverty and hunger. MBEMBE, A. *Necropolítica*. São Paulo, 2018, p. 80. MICHEL FOUCAULT, P. *Microfísica do poder*. Paz & Terra, São Paulo, 2021.

³⁶ Data from the Brazilian Forum on Public Security (FBSP) highlight the difficulties women face in reporting abuse during isolation, as well as the monthly increase in femicide and/or homicide rates across various states. Between March 2020, the onset of the Covid-19 pandemic, and December 2021, the last month for which data is available, there were 2,451 femicides and 100,398 cases of rape and rape of vulnerable individuals involving female victims. FÓRUM BRASILEIRO DE SEGURANÇA PÚBLICA. *Violência contra as Mulheres em 2021*. 2021. Available in: <https://forumseguranca.org.br/wp-content/uploads/2022/03/violencia-contra-mulher-2021-v5.pdf>. Accessed: 22 ago. 2024.

³⁷ INSTITUTO BRASILEIRO DE GEOGRAFIA E ESTATÍSTICA. *Síntese de Indicadores Sociais: uma análise da população brasileira em 2019*. IBGE, 2019.

³⁸ According to the study ‘Non-stop: Women’s work and life during the pandemic,’ 50% of Brazilian women began caring for someone during the pandemic, 52% of whom were Black. Women were also more affected in terms of emotional health. According to the study ‘Exploratory Study on the Psychological Impact of COVID-19 on the General Brazilian Population,’ women accounted for 40.5% of depression symptoms, 34.9% of anxiety, and 37.3% of stress. SEMPRE VIVA ORGANIZAÇÃO FEMINISTA. *Sem para o trabalho e a vida das mulheres na pandemia*. 2020. Available in: https://mulheresnapandemia.sof.org.br/wp-content/uploads/2020/08/Relatorio_Pesquisa_SemParar.pdf. Accessed: 23 ago. 2024.

³⁹ MINISTÉRIO DA SAÚDE. *Dignidade Menstrual*. 2024. Available in: <https://www.gov.br/saude/pt-br/campanhas-da-saude/2024/dignidademenstrual#:~:text=Campanha> %20

The actions related to the 'Women Living Without Violence' program aimed to ensure the centralization of protection policies within the Federal Government. This measure enables the Ministry of Women to act strategically with other federal entities, increasing the reach of this initiative, particularly by strengthening the Brazilian Women's House, a project designed to provide key public services for women victims of violence in a single location, including specialized police stations, annexes of the Court of Justice, annexes of the Public Defender's Office, and the Public Prosecutor's Office, as well as other services related to psychosocial assistance and promoting women's economic autonomy.

Subsequently, the Ministry of Women and the Ministry of Management and Innovation in Public Services collaborated on Decree No. 11,430, which aims to ensure that at least 8% of positions in public contracts are reserved for women victims of domestic and family violence. This measure demonstrates the intent to achieve gender pay equality directly, as in the requirement for bidding companies to implement actions aimed at gender equality in the workplace, using this criterion as a tiebreaker in federal public administration bids.

Finally, it is worth mentioning the Menstrual Dignity Program, established by Decree No. 11,432 and regulated by Law No. 14,214/2021, proposed by Congresswoman Tábata Amaral from the PSB, São Paulo. This measure aims to ensure the free and continuous distribution of sanitary pads to individuals who lack access to these essential products during their menstrual cycle, focusing on those who face difficulties in acquiring pads and live in less accessible areas, through the Popular Pharmacy of Brazil Program (PFPB). It is noted that the previous government initially vetoed the free distribution of sanitary pads, but eventually relented under social pressure⁴⁰.

5. The necessity of state policies for women's rights

The fight of women against social exclusion and violence cannot overlook the need for investment by the Brazilian State in public policies. In this regard, even during the Bolsonaro administration, significant achievements were made. For example, in the field of educational policies, the constitutionalization and consolidation of Fundeb (Fund for the Maintenance and Development of Basic Education and the Enhancement of Education Professionals) were achieved through the approval of Constitutional Amendment No. 108/2020. This was the result of mobilization by public schools, which, in response to the National Congress, confronted the federal government and secured the approval of the proposal⁴¹, thereby making the Fund permanent. The Fund was

Programa%20Dignidade%20Menstrual-Info&text=Para%20promover%20a%20sa%C3%BA de%20das oferta%20gratuita%20de%20absorventes%20higi%C3%AAnicos. Accessed: 23 agu. 2024.

MINISTÉRIO DAS MULHERES. *Programa Dignidade Menstrual*. 2023. Available in: <https://www.gov.br/mulheres/pt-br/aceso-a-informacao/acoes-e-programas-1/programa-de-dignidademenstrual#:~:text=O%20Programa%20Dignidade%20Menstrual%20foi,Fam%C3%ADlia%20e%20Combate%20%C3%A0%20Fome>. Accessed: 10 agu. 2024.

⁴⁰ G1. *Veto de Bolsonaro a distribuição de absorventes expõe 'pobreza menstrual': entenda o conceito*. 2021. Available in: <https://g1.globo.com/saude/noticia/2021/10/07/veto-de-bolsonaro-a-distribuicao-de-absorventes-expoe-pobreza-menstrual-entenda-o-conceito-e-o-que-esta-em-jogo.ghtml>. Accessed: 23 agu. 2024.

⁴¹ It is important to note that the government did not support the significant increase in the federal government's participation in funding the fund, which was approved by the National Congress, progressively raising the contribution from 10% to 23% by 2026. As if that weren't enough, Bolsonaro preferred greater flexibility in the use of FUNDEB resources, suggesting that states and municipalities should have more autonomy in deciding how to apply these funds. This included the possibility of direct cash transfers to families instead of prioritizing investments in educational infrastructure and the appreciation of education professionals. BASÍLIO, A. L. *Entenda as principais mudanças no Fundeb*. 2020. Available in: <https://www.cartacapital.com.br/educacao/entenda-as-principais-mudancas-no-fundeb/>. Accessed: 26 agu. 2024.

initially set to expire on December 31, 2020, as stipulated by Law 11,494/2007. This progress led to improved working conditions, remuneration, and career prospects for education workers, a sector composed of 80% women, according to data from the 2020 School Census. Additionally, Fundeb promotes the right to education for more than 23 million girls and women in public schools and those outside the education system, especially Black, quilombola, riverside, rural, and indigenous women⁴².

Other achievements include the recognition of the unconstitutionality of anti-gender municipal laws by the Supreme Federal Court (STF)⁴³. This judicial understanding clarifies that the State's duty to combat all forms of discrimination does not merely involve punishing violations of rights but necessarily includes the obligation to implement the teaching of gender, gender identity, and sexual diversity in schools as a hallmark of the republican mission of the right to education. This institutional response by the Judiciary confronted reactionary movements that, since 2014, have sought to censor education as a cultural strategy to dismantle historical achievements in gender debates and women's rights. Such was the case with the "School Without Party" project, which, as mentioned earlier, was defeated in both the National Congress and the STF, thereby reaffirming the notion of education as a practice of freedom in schools.

An equally significant achievement was the re-approval by Congress, during the early stages of the pandemic, of the emergency basic income, which positively impacted primarily Black women living in the peripheries of major urban centers. A payment of R\$600 was authorized for three months for up to two adults in families with an income of up to three minimum wages, with single mothers eligible to receive two benefits. However, this support lasted only for the initially planned three-month period. Subsequent government uncertainties and hesitations further complicated the already difficult situation of poor and racialized single mothers until the approval, during the 2022 election year, of an unconstitutional and electoral measure through Constitutional Amendment 123, which extended the benefit until December 2022⁴⁴.

⁴² LE MONDE DIPLOMATIQUE BRASIL. *Igualdade de gênero não é um luxo, é tão crucial quanto pão*. 2021. Available in: <https://diplomatie.org.br/igualdade-de-genero-nao-e-um-luxo-e-tao-crucial-quanto-pao/>. Accessed: 8 agu. 2024.

⁴³ SUPREMO TRIBUNAL FEDERAL. *Arguição de descumprimento de preceito fundamental n. 457, 2017*. Available in: <https://portal.stf.jus.br/processos/detalhe.asp?incidente=5192888>. Accessed: 25 agu. 2024. SUPREMO TRIBUNAL FEDERAL. *Arguição de descumprimento de preceito fundamental n. 467, 2017*. Available in: <https://portal.stf.jus.br/processos/detalhe.asp?incidente=5206806>. Accessed: 25 agu. 2024. SUPREMO TRIBUNAL FEDERAL. *Arguição de descumprimento de preceito fundamental n. 526, 2017*. Available in: <https://jurisprudencia.stf.jus.br/pages/search/sjur425819>. Accessed: 25 agu. 2024. SUPREMO TRIBUNAL FEDERAL. *Arguição de descumprimento de preceito fundamental n. 460, 2017*. Available in: <https://portal.stf.jus.br/processos/detalhe.asp?incidente=5204904>. Accessed: 25 agu. 2024. SUPREMO TRIBUNAL FEDERAL. *Arguição de descumprimento de preceito fundamental n. 461, 2017*. Available in: <https://portal.stf.jus.br/processos/detalhe.asp?incidente=5204906>. Accessed: 25 agu. 2024. SUPREMO TRIBUNAL FEDERAL. *Arguição de descumprimento de preceito fundamental n. 465, 2017*. Available in: <https://portal.stf.jus.br/peticaoInicial/verPeticaoInicial.asp?base=ADPF&numProcesso=465>. Accessed: 25 agu. 2024. SUPREMO TRIBUNAL FEDERAL. *Arguição de descumprimento de preceito fundamental n. 600, 2017*. Available in: <https://portal.stf.jus.br/processos/detalhe.asp?incidente=5733808>. Accessed: 25 agu. 2024. SUPREMO TRIBUNAL FEDERAL. *Ação direta de inconstitucionalidade n. 5537, 2016*. Available in: <https://portal.stf.jus.br/processos/detalhe.asp?incidente=4991079>. Accessed: 25 agu. 2024. SUPREMO TRIBUNAL FEDERAL. *Ação direta de inconstitucionalidade n. 5.580, 2016*. Available in: <https://portal.stf.jus.br/processos/detalhe.asp?incidente=5036462>. Accessed: 25 agu. 2024. SUPREMO TRIBUNAL FEDERAL. *Ação direta de inconstitucionalidade n. 6.038, 2018*. Available in: <https://portal.stf.jus.br/processos/detalhe.asp?incidente=5576085>. Accessed: 25 agu. 2024.

⁴⁴ Constitutional Amendment 123, of July 14, 2022, which, less than three months before the elections, allowed for the public spending cap to be exceeded, revealing the false nature of the fiscal austerity discourse. This amendment recognized a supposed and non-existent 'state of emergency' resulting from the unforeseeable increase in oil prices, while allowing the Bolsonaro government to: cap state fuel and derivative taxes at 17 or 18%; increase the gas voucher amount; create a one-thousand reais voucher for self-employed truck drivers; and expand the

For 2023, with the aim of ensuring stability for emergency income transfer programs, the new government reinstated the Bolsa Família program, initially through Provisional Measure 1,164/2023, signed by President Lula, which was subsequently transformed into Law 14,601/2023⁴⁵. The new law prioritizes single mothers, pregnant women, breastfeeding women, female heads of households, and women in severe social vulnerability, such as victims of domestic violence or extreme poverty. Among the general measures stemming from this law is the creation of a new loan modality for Bolsa Família beneficiaries, offering up to R\$6,000 in credit to boost small businesses among low-income families, thereby providing opportunities to strengthen the local economy and promote financial autonomy⁴⁶.

In the area of combating violence against women, the women's movement has secured significant victories, such as the Maria da Penha Law of 2006 and the Femicide Law of 2015. These two pieces of legislation have enhanced the protection of women against violence historically suffered by women, through a legal framework that holds violent and abusive men accountable. It is worth noting the important decision by the STF on March 15, 2022, which unanimously confirmed a preliminary ruling by Justice Dias Toffoli in the context of ADPF No. 779, affirming the legal impossibility of invoking the "defense of honor" argument⁴⁷, a defense commonly presented by accused parties in cases of femicide or assaults against women to justify the aggressor's behavior.

This summary demonstrates progress, but it is important to remember that the traces of political authoritarianism were not eradicated with Bolsonaro's electoral defeat. Amid the obscurantism that threatens current society, the Maria da Penha Law itself has come into conflict with the conservative segment of national politics, mainly led by the so-called "Bible and Bullet" caucus, composed of conservative pastors, military police, and militias⁴⁸. Although it is the country's most prominent legal reference, the Maria da Penha Law has completed eighteen years amidst increasing violence against women. According to the current Ministry of Women, there were 114,848 reported cases in 2023, a higher number than in the previous year, which was itself higher than the year before⁴⁹. The situation is so dire that Maria da Penha herself has faced death threats from ultra-conservative radicals.

Brazil Aid Program (Programa Auxílio Brasil), as outlined in Law n. 14,284, of December 29, 2021. BRASIL. *Emenda Constitucional n. 123 de 2022*. Brasília-DF, 2022. Available in: https://www.planalto.gov.br/ccivil_03/constitucao/emendas/emc/emc123.htm. Accessed: 25 ago. 2024.

⁴⁵ MINISTÉRIO DO DESENVOLVIMENTO E ASSISTÊNCIA SOCIAL, FAMÍLIA E COMBATE À FOME. *Relançamento do Bolsa Família completa um ano com conquistas para a população*. 2024. Available in: <https://www.gov.br/mds/pt-br/noticias-e-conteudos/desenvolvimento-social/noticias-desenvolvimento-social/relancamento-do-bolsa-familia-completa-um-ano-com-comquistas-para-a-populacao>. Accessed: 23 ago. 2024.

⁴⁶ REDAÇÃO MIX VALE. *Governo lança novo empréstimo do Bolsa Família com crédito de até R\$ 6 Mil*. 2024. Available in: <https://www.mixvale.com.br/2024/08/18/governo-lanca-novo-emprestimo-do-bolsa-familia-com-credito-de-ate-r-6-mil/>. Accessed: 23 ago. 2024.

⁴⁷ The justification, based on the thesis, suggested that it was acceptable for the defendant to murder or assault his partner (the victim) if she committed adultery, as she would have wounded his honor. In other words, it was a way for the aggressor to blame the victim, attributing the cause of his own actions to the woman's death or injury. SUPORTEPRESS. *A tese da legítima defesa da honra: o que é e por que é inconstitucional*. 2021. Available in: <https://www.politize.com.br/tese-da-legitima-defesa-da-honra/>. Accessed: 9 ago. 2024.

⁴⁸ The Liberal Party represents 92 seats, the bloc comprising MDB, PSD, Republicanos, and Podemos represents 147 seats, and finally, the bloc of União, PP, PSDB-Cidadania Federation, PDT, Avante, Solidariedade, and PRD holds 161 seats, out of a total of 513. PORTAL DA CÂMARA DOS DEPUTADOS. *Bancadas atuais da Câmara dos Deputados*. 2024. Available in: <https://www.camara.leg.br/deputados/bancada-atual>. Accessed: 26 ago. 2024.

⁴⁹ G1. *Lei Maria da Penha completa 18 anos, mas violência contra a mulher segue crescendo no país*. 2024. Available in: <https://g1.globo.com/politica/noticia/2024/08/07/lei-maria-da-penha-completa-18-anos-mas-violencia-contra-a-mulher-segue-crescendo-no-pais.ghtml>. Accessed: 23 ago. 2024.

6. Post-retraction: The need for state policies to rearticulate women's rights

As discussed here, the institutional agendas of the feminist movement have been gradually depleted. This process began with the Temer administration, which succeeded Dilma Rousseff's government after the impeachment, when the Secretariat for Women's Policies was dismantled and subsequently closed. It continued under Bolsonaro's administration, where women's demands were subsumed and subordinated to the conservative treatment of family matters. During Pastor Damareo Alves' tenure, the Ministry of Women, Family, and Human Rights (MDH) focused increasingly on the family theme, while neglecting the other two areas: women's rights and human rights. The Bolsonaro administration, overall, reintroduced a disrespectful attitude towards women, rooted in an archaic and anachronistic view, driven by the intention to relegate the female condition to a place of submission, promoting harmful, sexist, and LGBT-phobic discourses detrimental to human rights.

This context reveals an ideological strategy to reinforce and glamorize patriarchal practices, which, as a rule and according to the Constitution, Brazilian governments are supposed to combat rather than encourage. Unsurprisingly, throughout the Bolsonaro administration, the violent rhetoric and the indifference to abusive practices resulted in a shocking increase in femicide⁵⁰ and violence against women, even within institutional environments⁵¹—the cases of institutional harassment against female and male employees are part of this strategy. Paradoxically, these deaths, abuses, and instances of harassment sparked social outrage and became more prominently reported and denounced by major mass media outlets as well as on social media, highlighting the growing mobilization of the feminist movement.

It is worth noting that in the context of family rights, which stood in clear opposition to women's rights, Bolsonaro's policies contradicted direct constitutional recommendations that should be implemented as state policies, obligatory for all governments due to their roots in constitutional rationality. However, in the institutional discourse, there was no room for women's emancipation. In this scenario, the electoral rejection of the authoritarian project in the 2022 elections, while significant, did not resolve the issue of regression, nor did it address the challenges of maintaining, consolidating, or even reconstructing women's rights. This includes upholding the constitutional gains of 1988 and deepening new levels of protection, such as ensuring access to quality education and decent living conditions—equal pay, full employment, and public health that respects women's decisions, even encompassing aspects related to menstrual poverty. All of this demands greater participation of women in public decision-making spaces.

⁵⁰ For example, in the state of Rio Grande do Sul, the number of femicides increased by 35% in the first quarter of 2022. PORTAL GELEDÉS. *Feminicídios sobem 35% no primeiro trimestre de 2022 e RS vê reverter queda do último ano*. 2022. Available in: <https://www.geledes.org.br/feminicidios-sobem-35-no-primeiro-trimestre-de-2022-e-rs-ve-reverter-queda-do-ultimo-ano/>. Accessed: 9 ago. 2024.

⁵¹ Among other cases, there is the emblematic situation involving the President of Caixa Econômica Federal during the Bolsonaro administration. Reports of moral and sexual harassment saw a sharp increase at Caixa Econômica Federal following the arrival of the now former president Pedro Guimarães in 2019. According to data from the state bank, in 2015, there were 69 accusations of moral harassment and none of sexual harassment. In 2022, the numbers were 177 and 77, respectively. The information was obtained through the Freedom of Information Act. WALTENBERG, G. *Casos de assédio na Caixa explodem sob Pedro Guimarães*. 2022. Available in: <https://www.poder360.com.br/poder-economia/economia/casos-de-assedio-na-caixa-explodem-sob-pedro-guimaraes/>. Accessed: 9 ago. 2024. It is also worth mentioning the recent Law 14,612 - Amendments to the Statute of Advocacy, which includes moral harassment, sexual harassment, and discrimination among the ethical and disciplinary infractions within the Brazilian Bar Association (OAB). BRASIL. *Lei n. 14.612, de 3 de julho de 2023*. Brasília-DF, 2023. Available in: https://www.planalto.gov.br/ccivil_03/_ato_2023-2026/2023/lei/l14612.htm. Accessed: 23 ago. 2024.

Promoting parity of opportunities is not limited to adopting measures and actions but also pertains to the effectiveness of incentive, protection, promotion, and safeguarding policies, which, despite their constitutional foundation, can be neglected by governments according to the interests and ideologies of the political group or individual in power, as was recently observed. This indicates that, beyond the constitutional foundation, public policies protecting vulnerable and historically neglected sectors, such as women, need to be structured transversally, designed by different sectors of society, and receive substantial social support, notably from the national parliament, media outlets, social movements, associations, and other entities. Most importantly, they should be backed by robust budgetary investment, making them less dependent on government changes at the federal, state, or municipal levels. In short, these policies must be strong and enduring enough to ensure the implementation of fundamental rights, which are all characteristics of state policies.

Public policies are, therefore, programs, actions, and decisions created by the governments of federative entities—mayors, governors, and presidents—alongside civil society. Hence, both government policies and state policies are public. The difference between them lies primarily in the fields of Political Science and Law, to distinguish them based on stability, their capacity to withstand government changes, planning, and the breadth of the general interest that drives them. According to Caroline Müller Bittencourt and Janriê Rodrigues Reck⁵², public policies should be observed along at least three axes: institutional arrangements, decision-making models, and objectives.

Doctrine has worked with strong and/or weak classifications regarding state or government public policies. This classification, in the context of the subject matter addressed here, is highly useful due to certain characteristics. In agreement with the aforementioned authors⁵³, it is important to identify in state public policy aspects such as: whether substantial changes can be made by the ruling government; the hierarchy of its importance in case of judicial intervention or prioritization of public resources; its connection with unalterable constitutional clauses; whether they allow the participation of specialized organizations in legal decisions, such as the Public Prosecutor's Office and the Judiciary; whether they designate the value of social universality in contrast to the partisan commitment of the elected government; and whether, in case of discontinuity, they open the possibility for the accountability of the violating agent, among other traits.

This implies that, in principle, due to their strong connection with constitutional mandates, state policies are more easily subject to judicial action in cases of non-compliance. They transcend governments and lead to the accountability of agents who interrupt them. In such cases, there should perhaps be severe punishments, in the sense of effective accountability, for those who deliberately or ideologically fail to comply, without invoking the so-called "reserve of the possible,"⁵⁴ unless duly proven.

State policies should, therefore, enjoy the differential of having an expanded constructive base, created by law. The establishing regulations should specify institutional resource allocation and other investment channels, monitoring and evaluation indicators, and specifically that their funding guarantees cannot be easily replaced or interrupted. Thus, the higher the standard of institutionalization, the closer the public policy is to being a state policy. Examples of state public policies include the Unified Health System (SUS), established by Law 8080/1990 in the field of the right to health, and the aforementioned Fundeb, established by Law 14,113/2020 in the area of the right to education. In the context of the right to work, with respect to this field of

⁵² MÜLLER BITENCOURT, C.; RODRIGUES RECK, J. "Paradoxos do federalismo - uma observação pragmático-sistêmica". *A&C - Revista de Direito Administrativo & Constitucional*, 49, 2012, p. 151-176.

⁵³ MÜLLER BITENCOURT, C.; RODRIGUES RECK, J. "Paradoxos do federalismo - uma observação pragmático-sistêmica". *A&C - Revista de Direito Administrativo & Constitucional*, 49, 2012, p. 151-176.

⁵⁴ The 'reserve of the possible' is an implicit constitutional principle that balances the relationship between the economic and social rights guaranteed in the constitution and the financial support available from public funds.

study, there is equal pay between men and women, which, in addition to its constitutional treatment, was further elaborated through ordinary legal means, such as Law 14,611/2023, as well as in other statutes like the Consolidation of Labor Laws (CLT).

Similarly, one can mention the establishment, through federal law, of a minimum income with a differentiated benefit for families led by women and their offspring, as seen in Law 14,601/2023, which recreated the Bolsa Família program on more solid foundations, and Law 14,542/2023, which prioritizes women in situations of domestic violence within the National Employment System (Sine), facilitating access to the job market and financial autonomy. Both are examples of the expansion of the legal basis for new state policies, considering the planning aspect and ensuring the funding of these policies. This description suggests that state policies effectively engage with economic and social rights, which may be an effective pathway.

It is thus incumbent upon the public agenda of the struggle for the implementation of women's rights, within the Ministry of Women and other institutions, to analyze the contexts and identify the legislative and institutional gaps that weaken these guarantees, to open up the necessary claims for implementing the necessary rights. Action is needed within the context of a democratic government to prevent the oscillation and suppression of rights that can always occur under less democratic mandates. In this regard, João Pedro Schmidt⁵⁵ warns of the activation of the input-output logic that drives social systems in a continuous feedback process, pointing out that the institutional response of the State will depend on the quality of the relationship between social demand and institutional response. Thus, the stronger the foundation of the claim and the better directed its demands, the more appropriate the response or feedback will be.

7. Concluding remarks

The effective improvement of women's reality in Brazil may be achieved, among others, via endorsement of the social pact advanced by the 1988 Federal Constitution, a solid foundation for upcoming conquests. More recently, neoliberal and ultra-conservative offensives seek to establish themselves not only in Brazil, but worldwide, a trend that can only be countered by a firm struggle for public policies and the strengthening of the national state, as a ground for the implementation and financing of public policies and social programs. In this context, the marginalization imposed on feminist movements' demands and actors reinforces women's subjugation, especially those marked by racial prejudice and economic precariousness, such as Black women, Quilombolas (enslaved-descendants), indigenous women, transgender women, lesbians, and others ostracized due to the slavery-based roots of Brazilian society and its dreadful consequences. This demonstrates that individual and social demands intertwine and overlap with economic, social, and political realities in the struggle for women's rights.

The resistance forged by feminist movement's various manifestations against processes of institutional symbolic violence, including those produced by the Brazilian federal government in recent times, has weakened the dismantling efforts of hard-won rights by and for women. Fact is that the current global scenario suggests the intensification of ultra-liberal capitalistic processes, the financialization of the economy in collusion with necropolitics, which overwhelmingly and unevenly affects the most vulnerable. Against this backdrop, customs' conservatism acts as sand in our eyes, designed to confuse society and nudge it to waste time and efforts fighting against primitive prejudices and the medieval agenda of authoritarian governments. Meanwhile, public policies guaranteeing women's rights suffer severe and continuous setbacks.

Feminist movements advocate nowadays for gender equality from those rights' perspective and resistance against patriarchal practices. Some battlefronts are

⁵⁵ PEDRO SCHMIDT, J. Para estudar políticas públicas: aspectos conceituais, metodológicos e abordagens teóricas. *Revista do Direito*, 56, 2019, p. 123.

particularly important, such as (i) adequate funding, access, retention, and quality in public, free, and universal education; (ii) adequate health, as highlighted by the Women's Global Network for Reproductive Rights in 2020, when the reallocation of resources and priorities to ensure women's free and universal access to sexual and reproductive health services was a key issue; (iii) decent housing and suitable nutrition; (iv) work and employment, a sector that particularly suffered from the dismantling of state policies during the Covid-19 pandemic, thus exacerbating gender and social inequalities.

Such a multifaceted agenda transcends different rights, actions, and public policies. Due to its fundamental nature, it cannot be left vulnerable to setbacks resulting from ideological changes in power, meaning that efforts must be made to mitigate current and future damage. The proposal advanced in this contribution is to steer the struggle toward transforming women's most important demands into stable state policies. For this reason, in order for this decade not to recede an entire century, feminist movements ought to remain active, renew their strategies, and engage in a state of constant vigilance.

8. References

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