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Maria da Penha Law and Judicial Resistance: Heteroframing Gender-Based Violence in Belo Horizonte, Brazil

LEY MARIA DA PENHA Y RESISTENCIA JUDICIAL: ENCADRAMIENTO HETERO DE LA VIOLENCIA DE GÉNERO EN BELO HORIZONTE, BRASIL

LEI MARIA DA PENHA E RESISTÊNCIA JUDICIAL: ENQUADRAMENTO HETERO DA VIOLÊNCIA DE GÊNERO EM BELO HORIZONTE, BRASIL

Samantha Nagle Cunha de Moura[1]

Abstract
What does the Maria da Penha Law—and Brazilian women in general—stand to lose when enforced by legal institutions? In a grounded theory study using a mixed-methods approach that analyzed protective orders and interviews with legal professionals, the article shows how other(ed) relationship dynamics that disturb the heteronormative framework are either rendered invisible (the law is not enforced) or only intelligible through heteroframing (enforcement by emulation). I present this method of upholding gendered and sexuality-based hierarchies as the *modus operandi* of heterojustice, a system of legal rules and institutions characterized by gender conservatism and authoritarianism, with the aim of maintaining the traditional heterosexual family as the norm. I conclude that a multi-level analysis of gender-based violence is needed to move beyond a strictly intersubjective or structural analysis, to also include an institutional-level inquiry that is crucial to critically assess Brazilian society's continuous engagement with the Criminal Justice System.

Keywords
Maria da Penha Law; gender-based violence; criminal justice system; heteronormativity; heteroframing.

Resumen
¿Qué tiene que perder la Ley Maria da Penha –y las mujeres brasileñas en general– al ser aplicada por las instituciones legales? En un estudio de teorización fundamentada en los datos utilizando métodos mixtos que analizó medidas de protección y entrevistas con profesionales del derecho, el artículo demuestra cómo otras dinámicas relacionales que perturban el marco heteronormativo son hechas invisibles (la ley no se aplica) o solo inteligibles a través de un encadramiento hetero (aplicación por emulación). Presento este método de mantenimiento de jerarquías de género y sexualidad como el modus operandi *de la heterojusticia, un sistema de normas e instituciones jurídicas caracterizado por el conservadurismo de género y el autoritarismo, cuyo objetivo es mantener la familia tradicional heterosexual como norma. Concluyo que es necesario un análisis multinivel de la violencia de género para ir más allá de un enfoque estrictamente intersubjetivo o estructural, e incluir también una investigación a nivel institucional, que es crucial para evaluar críticamente el compromiso continuo de la sociedad brasileña con el Sistema de Justicia Criminal.*

Palabras clave
Ley Maria da Penha; violencia de género; sistema de justicia criminal; heteronormatividad; encadramiento hetero.

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Resumo
O que a Lei Maria da Penha – e as mulheres brasileiras em geral – tem a perder ao ser aplicada pelas instituições do Direito? Com um estudo de teorização fundamentada nos dados que analisou medidas protetivas e entrevistas com profissionais do Direito usando métodos mistos, o artigo mostra como outras dinâmicas relacionais que perturbam o marco heteronormativo são tornadas invisíveis (a lei não é aplicada) ou apenas inteligíveis por meio de um enquadramento hétero (aplicação por emulação). Apresento esse método de manutenção de hierarquias de gênero e sexualidade como o modus operandi *da heterojustiça, um sistema de regras e instituições jurídicas caracterizado pelo conservadorismo de gênero e pelo autoritarismo, que tem como objetivo a manutenção da família tradicional heterossexual como norma. Concluo que uma análise multinível da violência de gênero é necessária para ir além de uma abordagem estritamente intersubjetiva ou estrutural, incluindo também uma investigação em nível institucional, que é importante para avaliar criticamente o contínuo engajamento da sociedade brasileira com o Sistema de Justiça Criminal.*

Palavras-chave
Lei Maria da Penha; violência de gênero; sistema de justiça criminal; heteronormatividade; enquadramento hétero.

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Introduction[1]

The enforcement of the Maria da Penha Law (MPL), or Law No. 11.340/2006 (Brazil, 2006), the most important piece of legislation concerning domestic violence in Brazil, did not effectively mean the recognition of all types of family and intimate partner violence, but only those committed within an interpersonal dynamic that mimics a relationship with easily identifiable male/female positions. The stigmatizing effect of everyday bureaucracy in the justice system actually defangs the feminist "DNA" of the MPL, which was born out of Brazilian women's and feminists' grassroot advocacy. There is a process of assimilation that (1) reinforces stereotypical views of women as fragile and powerless and violence as inherently male; (2) applies a criminal logic that reduces reality to a simple aggressor/victim dichotomy favoring an intersubjective-level analysis of violence; (3) limits the enforcement of the law with extra-legal requirements (such as a gender-based motivation for the violence committed); and (4) uses a heteronormative perspective that renders queer[2] relationships either illegible or, at best, distorted versions of the heterosexual norm (an operation that is part of what I call *heteroframing*).

Decisions are made inside institutions with a particular habitus,[3] one that, for the purposes of this study, I define as *heterojustice*: a system of legal rules and institutions that overtly or surreptitiously enforces gender-based and sexuality-based hierarchies by conflating them with justice. They hold a shared set of characteristics: *fetishization of liturgy* (it is an extremely formal system, full of solemnities that demand deference from everyone), *oligarchic composition* (mainly composed of individuals from very specific ranks of Brazilian society, namely affluent White men), *conservatism* (especially regarding gender issues), *authoritarianism* (they demand obedience to their particular worldview, with little room for meaningful debate), and *hermetism* (these are institutions with little regard for social and democratic oversight). These characteristics command obedience to hierarchy: through the "magic" of its symbolic power and the authority of the state, it serves as a powerful tool to uphold the established order, making it seem as if it is dispensing justice. So, despite the

1 The author acknowledges the support of Brazilian society, through CAPES, for funding a large part of the research that ultimately led to this paper (CAPES/PROEX Call for Proposals No. 001/2021-PPGD/UFMG). She also extends her gratitude to all the study participants for their time and trust during the fieldwork.

2 In this article I will use the broader term "queer" to refer to lesbian, bisexual, and pansexual women.

3 Conversing with Pierre Bourdieu's sociological concept, habitus refers to "socially acquired tastes, preferences, ways of thinking and acting, learned and otherwise acquired from one's family, education, and life experiences" (Cleve, 2016, p. 218). When one focuses on the juridical field, habitus may be understood as "pre-reflexive determinations inscribed in the bodies and minds of individuals who make up the legal elites" (Castro, 2018, p. 25).

singularities and conflicting interests of some of its components, they complement each other as they all serve as parts of a "chain of legitimacy" while exercising the Criminal Justice System's[4] symbolic power (Bourdieu, 2010, p. 220, 237).

These institutions are tasked with implementing the gender-sensitive perspective of the MPL. They hold a long and problematic legacy with slavery (Flauzina, 2006), sexism (Mendes, 2012), and homophobia (Carvalho; Duarte, 2017). Due to their "democratic deficit"—bureaucratic insulation, hermetism, elitist rituals, and distant citizen participation (Lavigne, 2011, p. 84; Silva *et al.*, 2016, p. 164)—CJS's institutional culture is an authoritarian one, characteristic of repressive juridical systems (Ribeiro; Machado, 2014, p. 177). This culture breeds a corporatist stance that repels or at least hinders outside accountability and fruitful dialogue with external actors. Even with all this unsorted baggage, we still trust that they will have a neutral disposition and nuanced understanding to properly adjudicate the problems and pains of oppressed people.

The fundamental question is the following: *what does the MPL—and Brazilian women in general—stand to lose when enforced by legal institutions?* Drawing from feminist/queer criminology and the sociology of the juridical field, I will focus my analysis on current issues within this system that impact women encountering the "language of unequal, stigmatizing, and illegitimate punishment" (Martins, 2021, p. 195) used by legal professionals who embody the everyday practices of these institutions. In section 1, I will briefly present the methodological underpinnings of this study. In section 2, I will emphasize how the authoritarianism and gender conservatism of legal institutions are ongoing features of their functioning, now further exacerbated by the rise of a global religious far-right that rallies against a supposed "gender ideology" threatening the "natural order of things"—namely, the traditional heterosexual family. In section 3, I will explain how heterojustice inverts the law's gendered perspective, turning it into an evidentiary piece that must meet the high burden of proof imposed by legal professionals—a strategy that imposes a hierarchy of relationships that undermines the public interest in ensuring the right of *all* women to a life free from violence.

The persistent hope that the justice system can (or will) advance women's social, sexual, and political emancipation must be challenged. If we follow Kimberlé Crenshaw's (2016) allegory of intersectionality as a road intersection, and law as the ambulance that is called upon to assist a victim of an accident, Brazilian law (in the broadest sense, encompassing its institutions) is not an ambulance that does nothing; rather, it runs over the "victim" once

4 Here, I use the normative and institutional-instrumental definition of the CJS posed by Vera Regina Pereira de Andrade (2005, p. 76), comprised by the law and its formal institutions of social control (namely, the police, the Prosecutor's Office, the Judiciary, and the penal system).

again. Althought one might interpret the "crash"[5] between MPL's feminist "DNA" and the justice system as a "missed opportunity" (Machado; Prado, 2023, p. 385), the absence of alignment between institutional functioning and the objectives of the law has not resulted from a lack of mindfulness regarding the institutional dimensions of the law's enforcement. *Rather, for ideological and convenience reasons, a segment of the Brazilian CJS has actively and systematically chosen not to align itself with the law's intentions of protecting* all (and not just some) *women facing domestic and family violence*.[6] The case of Belo Horizonte is a poignant example of a sustained judicial resistance to the law's gendered perspective since its enactment. I would instead argue that the trivialization of domestic violence, often said to characterize the bygone era of the misdemeanor courts,[7] is still the era in which we live—the question is just for *whom* that is the case. And it will continue to be so if we keep empowering the same institutions without fundamental changes to their functioning.

1. Methods

The conclusions presented here are a result of a grounded theory[8] study with a mixed-methods approach (quantitative-qualitative) conducted from 2022 to 2024 at Minas

5 This collision manifests itself by subduing the radicality of the law's provisions and by inventing new requirements with supposedly technical arguments to justify systematically not enforcing it to hundreds of women over time.

6 As I mention in section 2, Brazilian legal institutions have pushed for important top-down reforms related to incorporating a gender-based perspective into sentencing, improving personnel training, and promoting research on domestic violence, especially in recent years. I am not dismissing these policies as unimportant or misguided. However, what I emphasize here is that legal professionals retain broad discretion in interpreting the MPL, often imposing subjective views about violence and gendered expectations onto cases, as prior research has shown (Brazil, 2018a, p. 146; Brazil, 2019, p. 91). Even today, as I will discuss in this article, many women are still denied legal protection due to restrictive interpretations of the MPL, depending on various factors such as the romantic/sexual nature of the offender-victim relationship, the type of violence, the type of protective order, and identity-related characteristics of the parties involved (like gender and sexuality).

7 Before the enactment of the MPL, the most common forms of family violence (such as threats and bodily harm) were processed under the procedures of small claims courts that represented an effort to reduce formality and penalization of offenses considered to be of "lower offensive potential". In this context, alternative penalties began to be applied in cases of domestic violence, meaning that the typical state response often amounted to requiring the offender to pay fines or donate food baskets, which for some activists and researchers meant trivializing gender-based violence in the home. For more on this, see: Izumino (2003).

8 This refers to an empirical research methodology developed by Barney Glaser and Anselm Strauss in 1967, which uses a comparative method and a simultaneous process of data "collection" and analysis to

Gerais' State Court (TJMG), Minas Gerais' Civil Police (PCMG), and Minas Gerais' Public Prosecutor's Office (MPMG), all located in the sixth largest urban city in Brazil, Belo Horizonte. The study's design has two equally important parts: 1) the analysis of 466 archived protective orders proceedings involving women defendants in two domestic violence courts (JVDFM 1 and JVDFM 2) and the two criminal courts that preceded them (CC 1 and CC 2)[9] between 2009 and December 1st 2022; and 2) twenty semi-structured interviews with legal professionals (police chiefs, prosecutors, and judges) with some experience in the field of domestic violence in Belo Horizonte since the enactment of the MPL.

The choice to use grounded theory, a strongly inductive methodology that is prone to abstraction through the co-construction of data and theory during fieldwork, seemed adequate to allow me to engage in an abductive analysis in which I would maintain a recursive relationship between my questions, the data, and theory throughout the research (Charmaz, 2008). Because grounded theory employs a constant comparative method, I compared the analysis of the proceedings with the interviews I was conducting to identify emerging patterns, whether similar or opposing. Each round of analysis informed what and whom I should focus on next in my fieldwork. The goal was theory-building: to continue developing my categories and understanding how they related to one another.

Since part of my research aimed to quantitatively and qualitatively analyze judicial proceedings involving women accused of committing domestic violence in family and intimate relationships, I requested access to the TJMG's database (*Sistema de Informações Estratégicas do Judiciário—SIJUD*), disaggregated by the sex of the defendant. Using this database, I was able to locate and request the de-archiving of protective order proceedings for a case-by-case analysis—an "excavating" process that took six months (January-August 2023), as all proceedings prior to November 2021 in Belo Horizonte were only available in paper format. The de-archiving flux is shown in Figure 1. In total, I had to go through this process fifteen times to obtain the sample used in this study.

generate theoretical propositions grounded in empirical data (Cappi, 2017, p. 399-400). For a more detailed explanation of its techniques, see: Corbin; Strauss (1990).

9 Cases from JVDFM 1 are coded as "JVDFM1-[*random number*]". Cases from JVDFM 2 are coded as "JVDFM2-[*random number*]". Cases from Criminal Court 1: "CC1-[*random number*]"; Criminal Court 2: "CC2-[*random number*]". The case numbers are coded in this manner due to a ruling issued by the TJMG Internal Affairs Office, which establishes that this information is confidential.

FIGURE 1 – **De-archiving Flux in TJMG (2023)**



Source: Author's own elaboration.

As a result, I built two separate databases through the application of two questionnaires: one for women in any type of relationship (mother/daughter, sisters, grandmothers/granddaughters, aunts/nieces, spouses/partners, etc.) (N = 466); and another one only for queer women (N = 83). The former includes the following variables: docket number; court; nature of the relationship between the parties; enforcement of the MPL (dummy variable); granting of protective order (dummy variable); year of filing; year of dismissal.[10] The latter includes 201 variables related to the parties' socioeconomic data, characteristics of the parties' relationship, characteristics of the reported violence, case processing, and other sensitive information. Because one of the central methods of grounded theory is

10 There is missing data for some variables (year of filing, nature of the relationship, enforcement, and granting of protective orders) in 108 cases, as I was unable to collect this information during my final de-archiving request due to time constraints. In this last round, I focused on analyzing the facts of each case to "excavate" proceedings involving queer women. The smaller database of 83 cases was thus derived from the analysis of 466 proceedings.

theoretical sampling—aimed at the conceptual development of a new theory and not necessarily at the generalization of results (Corbin; Strauss, 1990, p. 8)—the analysis presented here does not have any inferential aspirations.

For the qualitative dimension of the study, I made copies of certain court documents that caught my attention so I could code and analyze them separately. To better understand the context of the recorded decisions in these proceedings, I also interviewed seven judges,[11] six prosecutors,[12] and seven police chiefs.[13] I transcribed and coded these interviews using excerpts as units of analysis and organized them under overarching themes. Categories (such as "heterojustice") emerged through analysis, which occurred simultaneously with data "collection", enabling me to assess emerging patterns and seek triangulation on themes that would illuminate judicial behavior related to the MPL. The participants were intentionally selected—either directly or through snowball sampling—to ensure some variability in worldviews, time served within the career, experience with the field of domestic violence, and positions held within the institution. I will not disclose their positions and socioeconomic variables for reasons of anonymity. Most of them, however, are aged 30 years or older, identify as women, cisgender, White, and heterosexual.

2. "Feminist, full of *mimimi*": Gender ideology and stigmatization of subversive members

During fieldwork, I asked some interviewees the following: "Would it be fair to say, in your perception, that today the issue of gender-based violence in the courtroom is still seen as minor, secondary, not as important as other matters?" The response from J-5 stuck with me: "Your statement is perfect. It is fair, *very fair* [emphasis]". *Part of the operation of heterojustice is to shroud domination with a legal veneer*. Nowadays, the most common discourse that legal professionals will adhere to—at least in public—is the one we want to hear: domestic violence is a public issue, it is important, and we, the CJS, take it very seriously. However, this is only the surface, the veneer; in daily forensic life, resistance remains widespread and rampant. The majority of legal professionals I talked to acknowledge it, even if some couch it in more generous terms as a work in progress.

The most common reason given to explain this rabid resistance is plain *machismo* on the part of legal professionals. There is a sexist continuum over time: although the long arc of

11 Coded as J-1, J-2, J-3, J-4, J-5, J-6, and J-7.

12 MP-1, MP-2, MP-3, MP-4, MP-5, and MP-6.

13 PC-1, PC-2, PC-3, PC-4, PC-5, PC-6, and PC-7.

history is bent towards more openness to the subject (especially due to the protagonism of women operators within these spaces), hermetism and conservatism die hard in these institutions and show no indication of subsiding anytime soon. Dealing with "the victim of domestic violence" and their recurrent needs is seen as cumbersome by many, as some recalled hearing from their peers:

> The judges would say, "Well, they come here making all this fuss, but when it comes down to it, they don't press charges, they don't do anything, they come and say they want to give up" [...] "Don't these women have anything to do?! Don't they have a pile of clothes to wash?" (J-7).

> "Oh, but she liked it [referring to a rape case]!", okay? I heard that during the police academy. I was like... "Is no one going to say anything?", you know? Later, this guy became the police director (PC-6).

> I even talk a lot with my colleagues, the men, and they say things like, "Oh! She goes there, and then she comes back withdrawing the complaint, she's already living with him again!". I think this is also seen very poorly. Because people don't study these gender issues (J-2).

> [...] there are still many people, both men and women, who are very sexist, who see this as unnecessary, who think it's an exaggeration, who think it's not like that, that the justice system is still used a lot by women who want to get men out of the house, by women who want to benefit from it, so it still exists, it still exists (MP-5).

> Many people don't have the patience, don't have the right profile, [...] because [...] the woman lives in a cycle, or spiral [...]. So, she is always coming back. And this also tires public security personnel a lot (PC-2).

> We have operators who present themselves, wear the guise of great protectors, give speeches in hearings... [...] but they are misogynistic. Misogynistic, prejudiced, it's horrible, you know? It's a true revictimization and institutional violence against the victim (MP-6).

There is a "repulsion" (PC-7) that lingers with the enforcement of the MPL, still seen by many as "just a minor proceeding" (J-3) that does not amount to the same importance as processing other crimes that have come to be traditional parts of the activities of the CJS, such as homicides and drug trafficking (MP-3). There is a "feminizing" process over this type of work, labelling it in demeaning terms, and making it seem extraneous to the mission of the justice

system and a complete waste of time for legal professionals. This is even more evident in the speech of police officers, probably because this institution is the closest one to the "heat of the moment", open for service all day every day in Belo Horizonte, and bearing the brunt of being the "primary entry door" of the system. Peers in the police call this type of work "police window dressing" ("*perfumaria policial*") (PC-5), and a "fuss" ("*frescura*") (PC-6), deeming it a very easy type of investigation, but a tiresome one (PC-4 and PC-5). Overall, helping women in a situation of violence by providing them with resources—like a vehicle to get them somewhere safe, getting food, or a place to sleep for the night—may be met with responses like: "Look, this place where you work is not a social service center; it's the Judiciary" (J-1), or "this is not police work […]. This is work for a psychologist, a social worker" (PC-7).

So, even if several infrastructure developments take place—such as the installation of specialized police stations and courts to handle domestic violence cases—these do not necessarily indicate a true commitment to the cause, but may instead serve as virtue-signaling maneuvers to cater to public opinion.

> When I joined the institution, my view on this matter was that it was a unit that existed because there was a [legal] provision for it. […] But I noticed a certain discredit, a certain lack of importance in practical terms. The allocation of resources, personnel, training – it apparently existed *pro forma*, not with the intention of actually being a specialized police unit (PC-5).

> Everything related to the Maria da Penha Law, to violence against women, is still seen as something of lesser importance. Unfortunately, there is even a movement […] in the [*appeals*] court, for political reasons, to abolish the [domestic violence] specialized chamber (J-3).

One of the most shocking pieces of data shared with me during fieldwork was the fact that the TJMG and the PCMG have such a deep-seated stigma regarding domestic violence that assigning a professional to work within a specialized court or police unit would be considered a form of penitence for past mistakes committed in their jobs. If the court servant was problematic, "they were sent to handle domestic violence cases" (J-2). The same goes for police officers: "the punishment: stay at Women's [Police Station]. Putting up with those annoying women over there" (PC-6). Even though several interviewees mentioned that this has "improved a lot" (J-2) or that in Belo Horizonte "it still exists; not much, but it exists" (PC-4), this is just one of many manifestations of the lack of importance given to the issue. Another is to stigmatize even those who want to work in those places: "You're going to the Maria da Penha [court]?! You're crazy!" (J-2), and "Wow, why? What did you do?" (PC-3).

Professionals who work with domestic violence and are vocal about gender-related issues (like domestic violence, LGBT+ rights, and better female representation inside these

institutions) are commonly stigmatized by their peers, a reality that many interviewees pointed to (notably, most of them are women). "Now, being stigmatized, yes! Anyone who works in domestic violence knows that" (MP-6). Tilted institutional power relations and the "neutrality ideology" (Worrall, 1990) that seeps into juridical work make the supposedly "militant" kind of professional a "bad apple" in the eyes of the hegemony – "my work is considered 'ideological' by certain colleagues", said MP-2. "They talk to us like this: 'you're too feminazi'" (MP-4), or "Wow, but so-and-so is really overdoing it with this topic" (J-5), and even "Oh, you're nervous, speak more softly" (J-3). The stigmatizing of perceived "subversive" peers has the negative effect of prohibiting an honest debate about gender in these institutions, spiking the costs of being outspoken: "No, I feel it [difficulty in talking about gender at the TJMG]. Even today. It's very difficult […]. It even creates some discomfort, because people judge you" (J-2), and "by speaking your mind, you end up being marked, right? So today, I don't participate in anything in the court's administration. Because […] I think I'm seen as a threat" (J-3).

Even sharing one's experiences with gender discrimination within these institutions may be met with judgment from peers. An online post by a prosecutor from MPMG, describing an interaction she had in a WhatsApp group full of colleagues, is very telling. She recalled how some male prosecutors downplayed accounts from several female peers about their experiences with gender-based discrimination inside the office. Comments included the following: "[he] added that he hoped for a generation with less '*mimimi*'",[14] and "when things are overly problematized, there is a risk of seeing prejudice and humiliation in everything". Also, some chastised the women for bringing it up in that specific group chat, as if this was an inappropriate topic to discuss among peers:

> A prosecutor left the group, and three others, all men, expressed that the space […] would be inappropriate for the debate. It is important to note that, on previous occasions and without any protest, messages on topics completely unrelated to the group's purpose were shared, including Father's Day greetings, motivational messages, and even a link to an article about "gender ideology" (Rocha, 2018).

The way some operators deal with the "militant" or "ideological" labelling is to strategically use language: to keep saying what needs to be said, even if by "defanging" the message. So, avoiding loaded terms like "gender" and "feminism", and refraining from self-identifying

14 This is an expression very common among people who ideologically identify with the right: it means "whining", and is usually used to criticize those who denounce identity-based discrimination. It was commonly used in online right-wing forums and channels and quickly spilled over into mainstream discourse.

as a feminist, is seen as necessary by several professionals in order to keep advancing the debate within these institutions:

> No, I don't say "I'm a feminist". I don't say it. People know how I think. But I don't… I don't say it. Because I know it's a pejorative term. Unfortunately, it is these days (MP-4).

> Every time I go discuss and everything, I say, "Look, we're not going to debate gender. I didn't come here to debate gender, I came here to discuss violence against women" (MP-5).

> For sure, for female police chiefs or… judges, prosecutors who take a stand, I believe they… encounter many obstacles and have to weigh their words carefully, yes… Because otherwise, they get disapproving looks, definitely, I'm sure of that (PC-6).

> So, I've been careful not to delve too much into gender concepts, not to get into feminism, the waves and all that; why? To avoid pushing away people who wouldn't listen to me if I mentioned something. Complex times! (MP-3).

These expressions have become politically charged fairly recently, even though a gender-based perspective has never been an easily accepted discourse in the CJS. For some, it is necessary not to domesticate one's words; otherwise, the "ghost of gender ideology" (MP-6) will remain very much alive. This ghost has been circulating for the past thirty years in some Latin America countries, such as Paraguay and Peru, but actually began to pick up steam much later in Brazil, after 2007, when a systematic propagation of anti-gender discourses actually began to circulate in Catholic spaces, and even more so after 2013, when fundamentalist Evangelical digital media and leadership started to engage in anti-gender political mobilization (Corrêa; Kalil, 2020, p. 47, 48).

This type of argument has been adeptly politicized by the Brazilian far-right, becoming a rallying cry for an anti-woman, anti-LGBT+, and anti-communist agenda that has been successful in passing anti-gender legislation and policies favoring the "traditional family". This is done under the guise of protecting innocent children from indoctrination (to prevent them from becoming transgender or homosexual) and maintaining the "natural order" of social relations. This serves to uphold the notion of Brazil as a Christian nation, organized around a fundamental and immutable dichotomy: "Man" and "Woman", with a hierarchical social-sexual relationship—the former, as the *pater familias*, or the *macho* head of the household; the latter, as the submissive mother responsible for the social reproduction work of the heterosexual family. This archaic discourse has been at the center of several election cycles in Brazil, weaponizing sensitive issues such as abortion and fueling a vicious online fake news machine. This machine has accused the left of outlandish actions, such as distributing

a "gay kit" with homoerotic books and erotic baby bottles with penis-shaped teats to public schools and daycares (Falcão; Sander, 2010; Queiroga, 2021).

Several legal professionals confirmed the entry of this type of ideology into Belo Horizonte's CJS: "by the way, there are colleagues who even give talks against gender ideology" (J-5) and "I may have to deal with prosecutors [in domestic violence] that are extremely radical and *bolsonaristas*. There are prosecutors with the Brazilian flag on their WhatsApp" (MP-3). For them, this rendered the discussion of gender-based violence within its institutions as highly politicized: "the gender question still suffers *a lot* [emphasis] from prejudgment by judges, prosecutors, public defenders, and lawyers" (MP-6). One interviewee even mentioned how the violent protests against the presence of Judith Butler in Brazil, scheduled to give a talk in an academic event in São Paulo in 2017,[15] had an impact on day-to-day interactions with peers:

> […] one couldn't even mention the term "gender", as it was not well received by the court or by female and male colleagues. Why? Judith Butler had just been in Brazil. […] bringing up gender was such an issue… One had to know how to handle these expressions here in the court because they didn't understand. They were precisely seeking out this article from the church that had attacked Judith Butler (J-1).

This anti-gender discourse, created by Catholic institutions and disseminated by Evangelical media, is particularly powerful and dangerous because it comes through as a pseudo-academic narrative that disguises its "religious moralizing substance". However, despite this "sanitization" process, the objectives are still religious-based, especially when it relates to education: control over it is a strategic move because "it implies the perpetuation of ideological transmission of religious, economic and political values and symbols" (Ramírez, 2020, p. 30, 31). Indeed, education has been a fertile battleground for gender ideology in Belo Horizonte's CJS:

> […] some people expressed the opinion that this [gender ideology] was absurd, that it shouldn't be addressed. The issue of education in schools was greatly affected by this.

15 Outside the venue where Butler was scheduled to speak, far-right protesters chanted against gender ideology while holding Bibles, crucifixes, and the Brazilian flag. They accused her of incentivizing pedophilia and ultimately burned an effigy of her dressed as a witch to the sound of the Lord's Prayer. "Burn the witch!", "Brazil is a conservative country, against gender ideology. Butler out!", and "Man is man, woman is woman, and here in Brazil you don't do whatever you want", were some of the vitriol spewed that day (Betim, 2017).

> You know, I know that my colleague in [the specialized Prosecutor's Office related to] education faced many demands in this regard, with people saying it was absurd to talk about it, to debate it (MP-5).

Notably, several interviewees frequently mentioned a high-profile class action case, filed by two prosecutors from MPMG in 2018, against Colégio Santo Agostinho, a traditional Catholic private school in Belo Horizonte, one month before the 2018 presidential election that would later elect Jair Bolsonaro. This proceeding is a product of this broader context that I have been pinpointing here, with an inaugural petition full of "buzzwords" and worn-out arguments that we have come to know as being part of the vocabulary of anti-gender movements. The complaint came from several parents of students, who went to the MPMG to denounce the presence of "gender ideology" in books provided for children in elementary school. The parents alleged that the school was distributing "literary texts inappropriate for the children's age [eight to eleven years old]" and that they were approaching "the topic of gender identity in a cross-curricular manner across various subjects in the school curriculum" (Brazil, 2018b, p. 2, 3).

The prosecutors – both serving at the specialized Prosecutor's Office for the Rights of Children and Adolescents – agreed with the parents: they said that the material "confronted the moral values of the family", that it amounted to "brainwashing" that "confounded children's heads", by legitimating "pedophilia as a natural right", and by forcing "change of clothes and accessories" (Brazil, 2018b, p. 28, 29, 31). The "gay kit" fake news is there ("it incentivizes children and adolescents to develop homosexual behaviors"), the anti-Butler critique is also there ("She is an advocate of a rhetoric of social subversion, which denies the ontological existence of male and female sexes, confusing basic semantic and legal concepts for our society"), and the overall trope of gender theory as "extremist feminist politics" that encourages pedophilia and disregards the "natural rule of things", such as the heteronormative family and the "binary nature of the human species", are definitely present as well (Brazil, 2018b, p. 8, 9, 16, 25, 36). After filing, a legal internal battle ensued inside the MPMG, with the specialized Prosecutor's Office for Education filing for the suspension of the case because the case stepped over their attributions (Promotoria [...], 2018).

It is no surprise that this type of ideology is taking root in the CJS. Heterojustice's stockpile of knowledge is very much compatible with this renewed ode to hierarchy presented by anti-gender discourse. For many legal professionals, the pretext of protecting the traditional family and controlling deviance is seen as a natural mission of the law, including its institutions. In a qualitative study on decisions by the TJMG's appeals court from 1989 until 2010 (Coacci, 2013), we can see that the "nature" argument related to debates on the right to change one's legal name and gender marker on public documents is a very common parlance in judges' decisions. The justice system's gaze creates the deviant and the very notion of "sex", now even more emboldened by these recent developments: "It [same-gender

relationship] is not a relationship seen as normal, no. So much so that you see we don't have reliable data [...]. Why? Because many cases do not reach the justice system. Because they will encounter resistance, a prejudiced gaze" (MP-6). Indeed, others recounted many instances, old and new, of this dominating gaze: a colleague "accusing" a peer of their disposition to grant adoption to gay couples during a public judgment session (J-7), police officers bonding behind the curtains while engaging in recreational homophobia (PC-5), as well as demanding that queer people only live their sex lives in private, away from public view (PC-6).

Especially since 2018, the National Council of Justice (CNJ) and the National Council of the Public Prosecutor's Office (CNMP) have been leading efforts to incentivize (and sometimes impose) some kind of institutional guidance related to issues such as gender-based violence (the National Judiciary Policy to Combat Violence Against Women [Brazil, 2018b], the 2021 Protocol for Judging with a Gender Perspective (Brazil, 2023), the adoption of the risk-assessment form FRIDA [Brazil, 2020]); mandatory training for judges on domestic violence courts on gender, race, ethnicity, and human rights (Brazil, 2023); gender equity in the Judiciary (Committee for Encouraging Female Institutional Participation in the Judiciary) (Brazil, 2023); and victim's rights in the CJS (Institutional Policy of Comprehensive Protection and Promotion of Rights and Support for Victims) (Brazil, 2021). However, even if these developments are important precedents, all of these initiatives are to no avail if they are not coupled with an institutional framework open to social control within each institution.

> Functional independence cannot be so absolute. It cannot suffer political interference, you know, favoritism. It can't! But every institution must have a guideline! There is no institution without guidelines. [...] How long has the CNMP been setting guidelines? How long has it been... How long has the CNJ been mandating [...]? Look! Look at how much is still missing (MP-6).

With authoritarian institutions, any advancement—whether in accountability or a gender-based perspective in case processing—will be enforced (if at all) only to the extent and at the pace that the local hegemony allows. However, as the fieldwork has shown, there is no indication that their members are open to willingly give up their power to define if, when, and how our rights will be guaranteed.

3. "A JUSTICE MADE FOR WOMEN — AM I GOING TO PROSECUTE EVERY WOMAN?": GENDERED SUBJUGATION AND HETEROFRAMING

Despite the provision in the MPL that personal relationships under the law "are independent of sexual orientation" (Brazil, 2006, Article 5, Sole Paragraph), domestic violence courts in

Belo Horizonte have a long history of denying protective orders for queer women, including the argument of a "lack of gender-based subjugation". This rationale appears in **10.84%** of cases involving queer relationships (N = 83): one case from 2011 (CC1-12), six cases from 2019 (JVDFM2-6, JVDFM2-7, JVDFM2-8, JVDFM2-9, JVDFM2-10, JVDFM1-4), and two cases from 2021 (JVDFM1-6, JVDFM1-7). It represents the second most frequent reason to deny protective orders for queer women in the sample (**14.06%**), only behind voluntary dismissals by the plaintiffs (**25%**). Although judges who issued most of these decisions have changed their stance in more recent cases to ensure the enforcement of the MPL in those situations, it is still noteworthy that the CJS has taken a long learning curve to start enforcing the law in queer relationships. However, this important (albeit late and ongoing) change did not occur due to an intersectional understanding of the dynamics of violence experienced by these women, but rather to a mechanical subsumption that mimics the typical heterosexual relationship that incorporates the (male) aggressor and the (female) victim dichotomy.

The so-called "lack of gendered subjugation" comes from a supposedly "teleological" interpretation performed by some legal professionals that combines two articles of the MPL: Article 5 (which defines what is "domestic and family violence against women") and Article 7 (which enshrines the different forms of violence that are recognized by law, such as physical, sexual, and psychological). Under the justification that the former defines domestic violence as "any action or omission *based on gender* that causes the woman's death, injury, physical, sexual or psychological suffering and moral or patrimonial damage" (emphasis my own), Belo Horizonte's CJS routinely restricts women's access to specialized courts under the pretext that not all cases of violence within the home, the family, or intimate relationships, are actually deserving of the special protection afforded by the MPL—rather, only *gender-based violence* cases would be protected by it.

But what is "gender-based violence"? And how do we define it on a case-by-case analysis? I could sense hesitancy from some interviewees, apparently not familiarized with this discussion in an abstract manner:

> I can't really put it into words right now, but I look at each case individually, we discuss it here, and usually, when we see that there isn't gender violence, we don't grant it. You understand? That's the thing (J-6).

> It's hard to explain, you know, but… that was it, I tried to see, to look at the situation and say, "Did she suffer this because she is a woman? Does it have anything to do with it? Or not?" (PC-6).

> Yeah, good question. […] look, I never stopped to think about it, I just did it automatically (PC-7).

The responses I found had important variations, but they all had a common denominator: the need for the existence of a relation of power and control over a woman. A distorted view of the feminist patriarchal/domination framework (Santos; Izumino, 2005, *passim*) underlies the hegemonic comprehension of gender-based violence by Belo Horizonte's CJS, even if this theoretical influence is seldom recognized by most legal professionals. For some, the existence of a male aggressor (or someone performing the role of the male aggressor) is fundamental to the configuration of this asymmetric power relation: "it is imperative that the victim be a woman and that she be under the power and control of the MALE GENDER" (prosecutor in Case JVDFM2-16, from 2021); "submission of the woman by a man" (judge in Case JVDFM2-17, from 2022); "superimposition of one gender over the other" (J-1); "always a relationship of male superiority and female inferiority" (PC-1); "vulnerability that exists between genders" (PC-3), and other variations of the same argument (Case CC1-25, from 2013; Case CC3-1, from 2015; Case JVDFM2-20, from 2018; Case JVDFM2-18, from 2019). For others, the presence of a masculine component was not seen as a requirement: "power asymmetry between the aggressor and the victim" (J-5); "a position of subjugation in relation to the offender, due to a gender issue" (Case JVDFM2-18, from 2019); "a violence that occurs due to a position of sexual discrimination" (prosecutor in Case CC1-23, from 2012); and whether the plaintiff suffered control/domination/diminishment "because she is a woman" (PC-4, PC-5, and PC-6).

"I think you can't open the door to everything", said MP-5. To whom should we open the door, then? The responses are also varied and sometimes contradict each other. At times using the same examples, interviewees still came up with paradoxical conclusions. For example, cases involving mother (defendant) and daughter (plaintiff): "In the analyses I've done so far of these mother-daughter situations, I haven't seen any gender-based motivation!" (J-4) and "depending on the nature of the quarrel, the insult, [...] it could actually constitute domestic violence, so it's not solely because they are mother and daughter that it will never qualify" (PC-6). Cases involving sisters: "a sister who has taken on the role of head of the family and who also behaves in a... patriarchal way [...]. So, she puts herself in a position of superiority over the women [...] and that is still a gender issue as well" (MP-6) or "Now... when the violence is between sisters, especially sisters, there's never, usually they're fighting over inheritance, or... I don't know, something trivial. Sometimes a household item, the TV remote, you know? There's no gender-based violence!" (PC-7). Finally, cases involving daughter (defendant) and elderly mother (plaintiff): "I don't request a protective order under Law 11.340. I don't request it. To me, it has nothing to do with gender" (PC-2) and "Generally, if it's an elderly woman, they [judges] grant it. If she's not elderly, they don't grant it" (PC-4).

Because evidence of a gender-based motivation is a *judicial* requirement not defined by law and is knowingly difficult to prove (as acknowledged by some interviewees), subjectivist understanding will dictate its meaning in each case, causing the CJS to be extremely

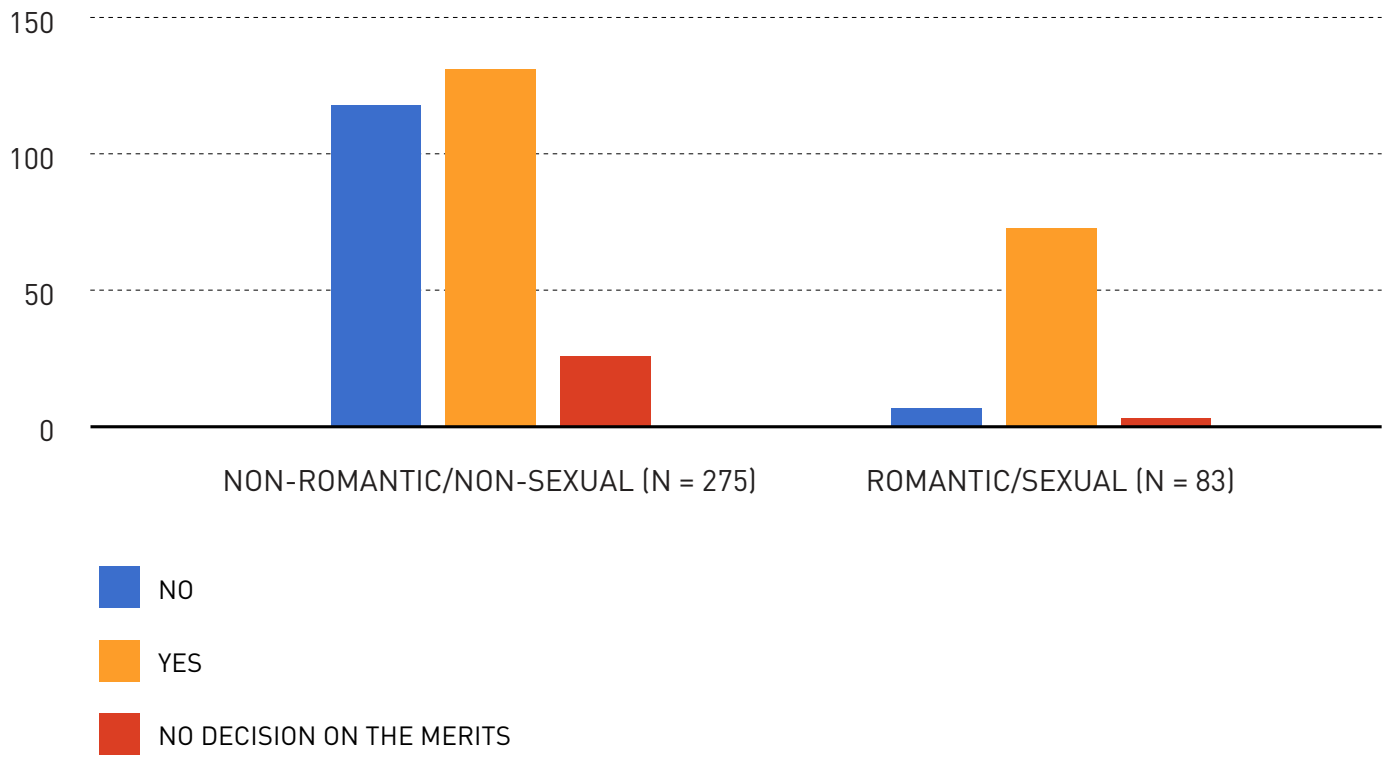
arbitrary. "The analysis is quite difficult, in the field, you know, in day-to-day situations" (PC-4), and "we sometimes have difficulty analyzing what is and what isn't a gendered issue when we have two women" (MP-5). There are three negative repercussions of keeping the gender-based motivation as a pre-requisite of enforcement of the MPL: 1) the divide that is built and constantly reinforced between non-romantic/non-sexual and romantic/sexual relationships as a criterion for granting protective orders for women; 2) the naturalization of violence as male and the "aggressive woman" as a surrogate, visible only insofar as she serves as a referent to hegemonic masculinity; and 3) the consolidation of the stereotype of "legitimate victims" as weak and vulnerable. All of this, I will argue, is part of a *heteroframing* process that sets the written and unwritten rules of intelligibility according to the hetero-normative gaze of legal professionals.

Considering all cases involving women defendants,[16] the MPL was enforced in **57%** of the cases, with denials comprising **34.92%** of the sample. This first "funnel", as I call it, except for a few cases,[17] is substantially related to the perceived lack of a gender-based motivation in the defendant's violent behavior. When we segregate the data on the nature of the relationship – whether romantic/sexual (relationships between queer women) or non-romantic/non-sexual (mothers/daughters, sisters, grandmothers/granddaughters, etc.) – an interesting pattern arises. *In this sample, non-sexual/non-romantic relationships have a five times higher rate of non-enforcement compared to queer relationships*: for queer women (N = 83), only **8.43%** (or 7 cases); for all other women (N = 275), **42.91%** (or 118 cases). See Graph 1 below.

16 Due to missing data on the enforcement and granting rates variables, the sample size here is N = 358.

17 For instance, very few of these cases did not enforce the MPL because it was considered a mere "family conflict", not serious enough for the law's protection.

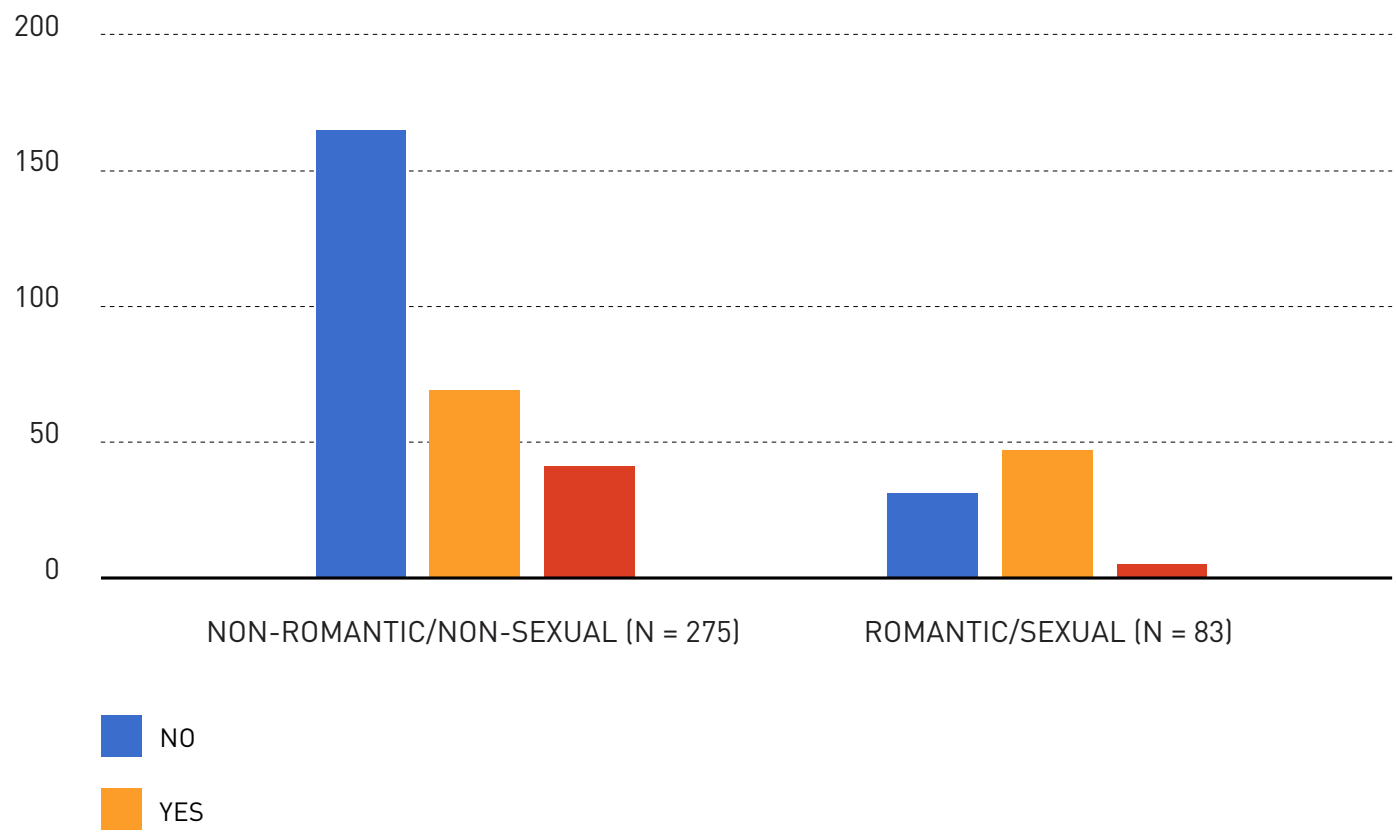
GRAPH 1 – **FREQUENCY OF MPL'S ENFORCEMENT PER NATURE OF RELATIONSHIP (ONLY WOMEN) AT TJMG (2009-2022) (N = 358)**



Source: Author's own elaboration.

A similar pattern can also be found when we look into the frequency of granted protective orders. Overall, they were granted (totally or partially) in **32.4%** of cases and denied **54.75%** of the time. As we can see from Graph 2, this high frequency of decisions refusing to grant protective orders is driven by the non-sexual/non-romantic relationships: for them, the protective order was denied **60%** (or 165 cases) of the time; for queer women, this rate was **37.35%** (or 31 cases).

GRAPH 2 – **FREQUENCY OF GRANTED PROTECTIVE ORDERS PER NATURE OF RELATIONSHIP (ONLY WOMEN) AT TJMG (2009-2022) (N = 358)**



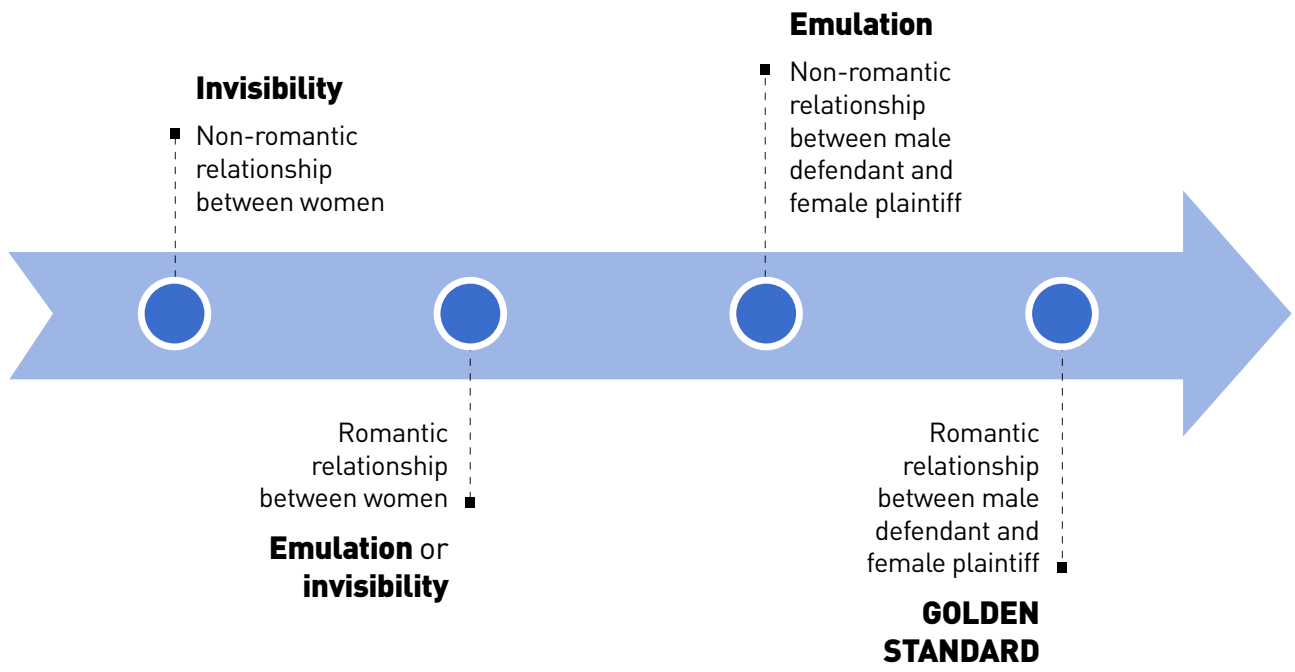
Source: Author's own elaboration.

To be clear, these patterns above are not explained by a greater understanding of the existing nuances between violence and sexual orientation. "The queer woman's gender identity is tenuous and can be stripped away from her at any moment should it suit some straight party or another" (Machado, 2021, p. 204). Depending on who interprets the case – from the police station to the execution of a judge's final sentence – queer women may or may not be considered fully entitled women. This is why we can still find recent decisions that do not enforce the MPL for these relationships: enforcement is inconsistent at best because female homosexuality is seen as an element of disorder in the desired systematicity of legal interpretation. *This disorder must be controlled either by invisibility (not enforcing the law) or by confining it to the normative limits of heterosexuality (enforcing by emulation).*

Nowadays, it seems that enforcement by emulation is the new dominant interpretation of the MPL in Belo Horizonte when it comes to queer women. It is expressed by a mechanical subsumption stemming from case law, especially from the National High Court of Brazil, stating that the agent of violence might be a man or a woman as long as the "victim"

is a woman.[18] This supposed consensus does not translate into a sexuality-sensitive approach in the proceedings. The common lack of awareness of legal professionals on the specificities of domestic violence in LGBT+ relationships leads to generic decisions catered to the same (heterosexual) people as before. Important nuances are left unanswered, and protective orders start to be granted without much scrutiny. As we can see in Figure 2, what comes through is that, *as one moves away from the heteronormative framework (heterosexual and male conjugal violence), it becomes harder (or rather the CJS gets increasingly less willing) to see gender-based violence in a given case*.

FIGURE 2 – **CHANCES OF ENFORCEMENT OF THE MPL (IN ASCENDING ORDER)**



Source: Author's own elaboration.

The mechanical enforcement of the law for queer women largely mimics the violent patterns commonly seen in heterosexual couples: the behaviors of control and possessiveness that are also common in queer relationships are more easily intelligible to a system built upon the punishment of the heterosexual male that objectifies his wife/partner. Through heteroframing, queer relationships are more easily accommodated into the "gendered subjugation" framework: "in a large part of the romantic relationships we encountered here, both

18 See, for example, *Habeas Corpus* 250.435/RJ (Brazil, 2013a) and *Habeas Corpus* 181.246/RS (Brazil, 2013b).

gay and lesbian, it was quite clear which individuals identified more with the male gender and which with the female gender, even when both were women" (J-1) and "The sound jurisprudential guidance only allows a woman to be in the active role of gender-based violence when a same-sex relationship with the victim is established" (prosecutor in CC1-23, from 2012). On the other hand, for women in a non-sexual/non-romantic relationship, emulation functions as a gatekeeping device leading to invisibility. Consequently, another extra-legal prerequisite arises: only intimate relationships of a romantic/sexual nature should be protected by specialized justice.

So, today, despite some scattered decisions stating the contrary in Belo Horizonte, having a sexual/romantic relationship with the offender (even if that person is of the same gender) guarantees a higher probability of the law being enforced and the protective order being granted compared to non-romantic/non-sexual relationships between women. However, there is still a price to pay: *the confinement of one's experience through a heteroframing process that firmly attaches violence to masculinity and reinforces fragility as synonymous with the female experience*. This is the "straight mind" at work, as it keeps the heterosexual relationship as the obligatory social relationship between man and woman, both defined according to a heterosexual system of thinking: "These discourses of heterosexuality oppress us in the sense that they prevent us from speaking unless we speak in their terms" (Wittig, 1992, p. 25).

Several legal professionals maintain a strong binary sense of gender as two discrete and incommensurate realities (male/female) when they enforce the MPL. It is rooted in some form of biological essentialism: "There is a difference in mentality because here we… are still viewing things through the lens of biological gender" (J-4). Therefore, one looks for evidence of who performs the male role in the relationship to label her as the aggressor: "regarding the active subject [of violence], the law elected the man or the woman (who chooses to understand their personality as masculine)" (JVDFM1-4 and JVDFM1-12, both from 2019). How they dress, speak, their body language, the tone of voice, which responsibilities in the home are taken up by them (either provider or caretaker), are all made-up criteria to actualize normative masculinity/femininity in a violent interaction.

> You identify that person who relates more to the male gender: [their way of] dressing, speaking, body language, tone of voice… who stays more in the masculine universe. These behaviors identify or signal that the female gender has masculine influences (J-1).

> I think it can also happen that one of the people suddenly takes on the role of the male gender, right? (PC-1).

> There's one who dresses more similarly, more masculinized, and the other more femininely. But it's not always like that! (PC-7).

> Sometimes I see – I don't know if it's right – but sometimes I see which one is more feminine, right? […] The other was in a submissive role because she stayed home to take care of the children and the house, while the author was the one who brought home the income (PC-4).

Exclusion is not the exception in the enforcement of the MPL since its enactment; it is rather the normal functioning of the CJS. The system is capable of many changes over time, but it is consistently arbitrary and uncertain when defining who gets to be a legitimate party in its proceedings. It is not only the labeling of the "criminal" that is selective; being a "victim", in the eyes of the CJS, is also only for a few. In the fine print of the penal-social contract, the ideal "Victim" is female, White, heterosexual, and in need of state protection. The place of the "Victim" is the expected role of women in criminal or *quasi*-criminal proceedings (such as the protective order): she must perform her pain in a normalizing manner, by which she will truly become a legal subject – the repetitive ritualization produces both subjectivity as a "Woman" and subjection to the state's punitive power. Law (in the broadest sense) becomes a "technology of gender" (Lauretis, 1987, *passim*). In this scheme of things, the presence of the "inverted" is a potential menace to be managed so as to uphold a rigid and binary social order divided along gender lines.

Brazilian criminal law usually assigned a secondary role to women, focusing on them mostly as the passive subject of sexual crimes (Mello, 2010, p. 137-138). No wonder, then, that the gendered subjugation framework heavily relies on notions of fragility, submissiveness, inferiority, and incapacity. The victim of domestic violence is viewed in the same way as the female victim of a crime. She is the "fragile sex" (Cases CC1-5, from 2009, CC1-26, from 2010, and CC1-12, from 2011) who lacks virility – "the man will always be stronger than her! Always!" (PC-7). She is "inferior" – physically and/or economically – to her male counterpart (Cases CC3-1, from 2015, and JVDFM2-18, from 2019), and she needs protection because she is "vulnerable" to all kinds of physical, moral, and psychological violence (JVDFM1-13, from 2020), making her the "weakest link" (J-6). She is powerless: "deprived of income, deprived of professional work, and deprived of the power of speech" (J-4), she is a "submissive person", an "incapable woman" who often "does not have autonomy over her own life, her own body, or her decisions" (PC-1). She "endures" her aggressor's offenses (J-6). The lack of evidence of any "subjugation, subordination relationship or any indication of the plaintiff's fragility" means the lack of enforcement of the MPL (Case JVDFM2-24, from 2022). Consequently, cases of "mutual aggression" are very difficult to disentangle: "which one is in the role of submission to the other? Which one is, in fact, the victim and which one is the perpetrator?" (PC-4).

There is an unreasonable burden of proof required of some plaintiffs: to demonstrate, through evidence, a *structural* hierarchy of power in a *specific* event of violence. "When the individuals involved are of the female gender, we believe it is necessary to provide more

conclusive evidence that one exerts a certain level of control over the other", said an appellate prosecutor (Case CC1-24, from 2013). How do you prove that that particular insult, that slap in the face, that day she gaslighted you, that time you did not want to have sexual intercourse but did it anyway, actually were the precise manifestation of female subjugation in your family or intimate relationship? To be sure, incidents that became "canonical" examples of gender-based violence are easier to recognize and, therefore, are usually presumed to be gendered in proceedings: controlling someone's decisions, whereabouts, and relationships with others; sexual objectification; and undermining someone's self-worth to keep them in a relationship. These examples, all taken from a conjugal violence framework, are easier to read as violence and are not usually barred by the gatekeepers *when they involve persons deemed legitimate by the CJS*. In these situations ("golden standard" and "non-romantic relationship between male defendant and female plaintiff" in Figure 2), the parties are exempted from demonstrating gender-based subjugation. However, every relationship and incident that deviates from this framework – non-conjugal relationships, women aggressors, victims who fight back, quarrels about money – face different levels of scrutiny. For them, the burden of proof is higher and sometimes impractical to be proven, since "it's very difficult to get inside the mind of the aggressor to know what motivated that violence" (PC-1). Instead of protecting *all* women facing domestic/family violence according to the law, the system tries to protect itself through discretionary gatekeeping. Even though gatekeepers have different strategies over time, they all coalesce to keep specialized justice as an exclusive justice.

Conclusion

"It's very interesting, [...] the *time* [emphasis] when we get into things. 2009, 2010, it's not 2023 in domestic violence" (MP-1). Indeed, we have come far. But I would argue we have not come *as far* as we could—and for certain people (women in non-sexual/non-romantic relationships with other women, gay men, non-binary people, etc.), we still have a long way to go. Different institutions help normalize hierarchy in a particular (and sometimes contradictory) fashion. Systems of power and personal experiences with domestic violence intersect in a multitude of ways when we consider how they are filtered through spaces with internal logics and rules. For certain women and types of violence, the justice system is ready to pursue vigilance and punishment; at the same time, for others, it is lenient and revictimizing. The lack of accountability, the conservative ideology, and the authoritarianism of these spaces all favor certain types of interpretation and intervention.

However, despite all the evidence presented in the field, the institutional domain of power is seldom at the forefront of criminological/legal analysis, and so heterojustice goes unchecked: the CJS and its members are routinely spared in the assessment of the enforcement of the MPL, still seen as largely neutral operators or as benevolent protectors of

women's rights—when, in fact, they are neither. *Gender-based violence is a continuum; violence in our family and intimate relationships may only fester with complicit institutions.* Betting on these same structures, impervious to outside criticism and employing a "straight mind" to its inner workings, effectively hinders the experimentation of new responses to domestic violence, especially when we consider women who occupy social positions that differ from the legal definition of the "victim", and whose relationships disturb the heteroframing tendencies of the CJS.

Going forward, we must not forget that the critical meaning at the core of "gender" as an analytical category is absolutely compatible with an intersectional approach (Collins, 2019; Crenshaw, 1991) in all its radicality: gender does not exist on its own, irrespective of other systems of power (such as lesbophobia), and does not produce effects in the ether, untouched by the specificities of power relations that structure our many institutions. A multi-level analysis of domestic violence, one that encompasses *structural* (how systems of power underpin political, economic, and social relations), *intersubjective* (how power circulates in a given relationship), and *institutional* domains of power (how power intersects and organizes the functioning of our institutions), must be conducted. Only with the latter dimension we can understand, for instance, how heteroframing functions as the working method of heterojustice: it is not a distortion that impacts only the lives of queer women who become involved with the CJS; *it is a device that transforms domination into law (and therefore naturalizes gendered and sexual hierarchies as inherently just) against* all *deviants of the norm*. In the context of domestic violence, it acknowledges only certain women, in certain types of relationships, and for certain types of violence, and all this selectiveness is conflated with justice. This is the cost of engaging with (and empowering) the CJS.

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