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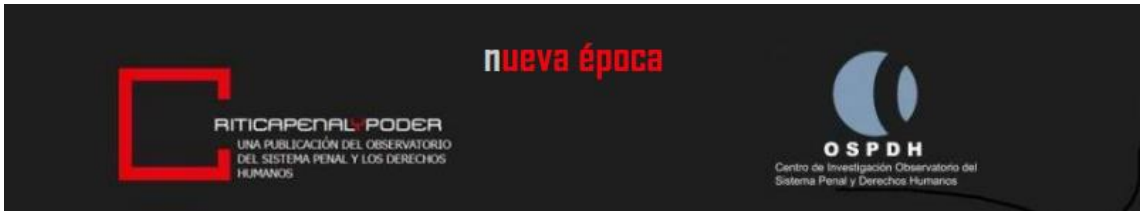

CRIMINAL REACTION TO WOMEN MURDERING IN LATIN AMERICA IN THE 21ST CENTURY: LEGAL APPROACHES TO FEMICIDE AND FEMINICIDE

MESURES PENALS DAVANT L'ASSASSINAT DE DONES A AMÈRICA LLATINA EN EL SEGLE XXI: APROXIMACIONS JURÍDIQUES AL FEMICIDI I AL FEMINICIDI

MEDIDAS PENALES ANTE EL ASESINATO DE MUJERES EN AMÉRICA LATINA EN EL SIGLO XXI: APROXIMACIONES JURÍDICAS AL FEMICIDIO Y AL FEMINICIDIO

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ABSTRACT

The objective of this study is to understand the specific criminal type known as murder of a woman for reasons of gender, based on a comparative analysis of its legal scope across Latin American legislations between 2007 and 2020, taking the Brazilian system as the starting point. Feminicide and femicide were the two main terms analysed here; each displays its own conceptual, legal and political means in its application and the struggles associated with its use. The methodology focused on developing a comparative study of women's rights based on what is protected and why, what is criminalised and condemned, and whether these rights are only informed by penal perspectives or refer to mainstream laws to reduce criminality. The analysed period (2007-2020) is divided into three moments and parsed from a criminal policy perspective, considering in particular the penalties and the coordination with other programs and mainstream policies to combat gender-based violence. In general, legislations opt for purely criminal-law measures without the necessary synergy with further programs, without consistency in the meaning of the terms adopted, and with difficulties to determine the offenders' sex. We conclude that the general tendency in Latin America is one which uses feminicide/feminicide without clear and cohesive criteria in the provisions of the Criminal Codes and lacks coordination with general programs and laws on gender-based violence. Finally, the scope of legal protection is generally limited to "woman" in a biological dimension.

Keywords: *Feminicide; Femicide; Women Homicide; Criminal Law; Latin America.*

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RESUMEN

El objetivo del presente estudio es comprender el tipo penal específico denominado 'homicidio de una mujer por razones de género', a través de un análisis comparativo de su ámbito de aplicación en distintas legislaciones latinoamericanas entre 2007 y 2020, tomando el sistema brasileño como punto de partida. 'Feminicidio' y 'feminicidio' fueron los dos términos principales aquí analizados; cada uno tiene sus propios medios conceptuales, jurídicos y políticos en su aplicación y en las luchas asociadas a su uso. La metodología se centra en desarrollar un estudio comparativo de los derechos de las mujeres a partir de lo que se protege y por qué, lo que se criminaliza y condena, y si estos derechos sólo están informados por perspectivas penales o se refieren a leyes generales para reducir la criminalidad. Dividimos el período investigado (2007-2020) en tres momentos, cada uno de ellos con características propias, con énfasis en la perspectiva criminal: altas penas, pena capital o fases en que los programas y políticas de combate a la violencia de género están en la agenda. En general, en las legislaciones se nota la defensa de la criminalización sin su necesaria articulación con programas y políticas generales de lucha a la violencia contra la mujer, sin coherencia semántica de los términos adoptados, así como con cierta dificultad en poder determinar el sexo del autor del tipo penal. Concluimos que el escenario general en América Latina utiliza feminicidio/feminicidio sin criterios claros y cohesivos en las disposiciones de los Códigos Penales y carece de coordinación con leyes y programas generales para combatir la violencia contra la mujer. Finalmente, la protección legal se limita a la 'mujer' entendida en una dimensión puramente biológica.

Palabras clave: *Feminicidio; Femicidio; Homicidio de mujer; Derecho Penal, Latinoamérica*.

RESUM

L'objectiu del present estudi és comprendre el tipus penal específic denominat 'homicidi d'una dona per raons de gènere', a través d'una anàlisi comparativa del seu àmbit d'aplicació en diferents legislacions llatinoamericanes entre 2007 i 2020, prenent el sistema brasiler com a punt de partida. 'Feminicidi' i 'feminicidi' van ser els dos termes principals aquí analitzats; cadascun té els seus propis mitjans conceptuals, jurídics i polítics en la seva aplicació i en les lluites associades al seu ús. La metodologia se centra en desenvolupar un estudi comparatiu dels drets de les dones a partir del que es protegeix i per què, la qual cosa es criminalitza i condemna, i si aquests drets només estan informats per perspectives penals o es refereixen a lleis generals per a reduir la criminalitat. Dividim el període investigat (2007-2020) en tres moments, cadascun d'ells amb característiques pròpies, amb èmfasis en la perspectiva criminal: altes penes, pena capital o fases en què els programes i polítiques de combat a la violència de gènere estan en l'agenda. En general, en les legislacions es nota la defensa de la criminalització sense la seva necessària articulació amb programes i polítiques generals de lluita a la violència contra la dona, sense coherència semàntica dels termes adoptats, així com amb una certa dificultat a poder determinar el sexe de l'autor del tipus penal. Concloem que l'escenari general a Amèrica Llatina utilitza feminicidi/feminicidi sense criteris clars i cohesius en les disposicions dels Codis Penals i manca de coordinació amb lleis i programes generals per a combatre la violència contra la dona. Finalment, el terme 'dona' segueix ancorat en la dimensió biològica.

Paraules Clau: *Feminicidi; Femicidi; Homicidi de dona; Dret Penal, Llatinoamèrica.*

Introduction

The purpose of this study is to build an understanding of the specific criminal offense known as feminicide and its legal scope through a comparative legal analysis between Latin American legislations, taking the Brazilian system as the starting point. The study focuses on the victims and aggressors' gender, qualifying circumstances and penalties, and the co-existence (or not) of specific preventive programs and policies. The aim is to assess whether there are similarities or differences between different periods and legislations in Latin America. However, it is necessary pointing out how feminicide is articulated in Latin America, from the perspective of the legislative "wave" observed in the early 21st century. The study's relevance lies in the significant increase, from 2010 on, in the number of legislations addressing this topic, and the need for a better understanding of how countries interpret this phenomenon and conceive penal policies.

In the following pages, I assess how feminicide emerged in the legal and political-institutional understanding as a crime echoing social disapproval. Nevertheless, this process presents definitional mismatches across Latin America countries that have addressed feminicide between 2007 and 2020, with Costa Rica and Chile being the first and the last country, respectively, to create such a legislation. I start with the Brazilian understanding of homicide, women murdering, and its mechanisms of prevention and punishment, in order to compare them to homologue counterparts in Latin American countries. Brazil accounted for 42.6% of feminicide cases in Latin America in 2019, according to the Gender Equality Observatory of the Economic Commission for Latin America and the Caribbean

Besides the introduction, the text is divided into nine sections. First, I summarize the methodological procedures. The second section provides the political etymology of violence. The third section focuses on the criminal law in Brazil. The fourth one emphasizes data about feminicide in Latin America. The fifth and sixth sections introduce the data collection results. The eighth section discusses results recorded for eighteen countries in Latin America that have created legislations in three different periods-of-time: 2007-2009, 2010-2014 and 2015-2020. The final section delivers the final considerations.

Methodological procedures

This comparative study about woman's rights follows the method by Almeida (1998), David (1953) and Maximiliano (2000) to evidence similarities and differences in laws. This explanatory method involves legal descriptions and comparisons to make confrontations in three phases. The first phase is the analytical one – it selects the elements eligible for comparisons across legal texts, whose chosen categories - such as crime, victim, aggressor, penalties and gender - are exposed. The second phase is the integrative one – it aims at understanding how these elements are articulated into the system of reference; in other words, how a category relates to another in a broader social and legal system; for example, whether feminicide, as an aggravating circumstance or an autonomous crime, liaises, or not, with other programs and policies, if any, to fight violence against women. The third phase is the conclusive one – it compares objects to find similarities and differences in terms of etymologies, legal consensus, understandings of violence and stances on "waves" of criminal incidence, among others. Data about laws, decrees, resolutions and policies/programs were

collected from official websites of the herein assessed countries, mainly from their Supreme Courts or Legislative Houses.
The analytical categories (phase 1) for comparative purposes consist in: the nature of the typified aggression; victims and aggressor's gender, the typification as a qualifying circumstance or an autonomous crime, the penalties, the coordination (if any) with associated programs and policies. The specific conceptualization of femicide and feminicide defines State accountability at the integrative level (phase 2). I then present (phase 3) the contradictions in the use of femicide/feminicide concepts, taking as a basis the gender relations against the background of violence against women in Latin America. The statistical data used here are produced by the *Gender Equality Observatory for Latin America and the Caribbean*, which is part of the Economic Commission for Latin America and the Caribbean, also known as CEPAL[1].

Feminicide: seeking the political etymology of violence

There is a clear difference in the political construction of violence when it comes to women's murdering. The relative lack of consensus about the meanings of "feminicide" and "femicide" is not simply linked to grammatical or lexical divergences, but to historical attempts to name a fact. *Femicide* regards misogynist dimensions, hate or procedural actions related to the offender, whereas *feminicide* is associated with recognizing the State's negligence towards the systemic occurrence of a specific crime consisting in women's murdering. Homicide is a specific criminal offense against life itself. There is consensus about life as the person's most valuable legal right for representing the "basic condition for all individual rights" (Xavier, 2019, p. 4).
Every criminal code provides its own specific understandings of concepts and procedures applied to qualify (aggravate or mitigate) a homicide. For example, according to the Brazilian Criminal Code (Decree n. 2.848 from 1940), a homicide can be qualified by moral, immoral or social and anti-social reasons. Concepts linked to moral or social reasons can be used as mitigating circumstances when there were no alternatives to someone but to commit a homicide. These circumstances do not rule out someone's guilt, but significantly reduce its penalty. Instead, in case of immoral or anti-social reasons, the offender's conduct is aggravated by its legal qualification as heinous crime.
If one takes into consideration the aggravating circumstances of homicide, according to the Brazilian Criminal Code, these are linked to objective and subjective factors. The objective ones relate mostly to the execution modalities and the actions taken by the offender preventing any defense possibility for the victim. Subjective circumstances are related to the offenders' attitude. Therefore, they demand interpretation and digging into the reasons leading the offender to commit the crime, as well as the ends pursued.

By observing criminal codes in different countries, the understanding of some conducts as heinous and aggravated crimes also reveals political assumptions about the commitment to protective and correctional tasks, in particular the need for higher punitive standards, beyond the normal ones provided for 'simple' homicides. Although the criminal codes have been around for centuries in Latin America, the first typifications of women's murdering as an aggravating circumstance were

[1] Available at <https://oig.cepal.org/pt/indicadores/feminicidio-ou-femicidio>. Accessed on August 28, 2021.

only laid down in the early 21st century. The way women's murdering is addressed in legal sources reflects a political scheme, as starting from the late 20th century Latin-American countries were pressured to introduce specific punishments for violence against women in their criminal codes, yet with differences in the political etymology of violence adopted across countries (Marques, 2020; Saffioti, 2015; Segato, 2013; Tavarez, 2018).

Typifying the crime of a woman's murdering through violent means due to gender, sex or feminine conditions, is part of a set of public policies aimed at defending making human rights and acknowledging the need of taking action to achieve equality between men and women (Espínola, 2018). Renata Bravo (2019, p. 92-94) highlights that such a process can represent a "disruption in the apparent neutrality of Law", because it breaks up with the patriarchal State model and "forces [the State] to accept that the concept of citizenship cannot be supported as long as women do not reach full equality of rights".

The task of addressing such a specific homicide from the legal perspective also requires a deep understanding of its political expressions, as every feminicide means the death of a woman, but not any woman's murdering constitutes a feminicide. Myrna Dawson & Michelle Carrigan (2020a, p. 682-704) made a crucial clarification on this, namely, distinguishing feminicide from women's murdering by taking into consideration that feminicide concerns motivational elements related to the meaning of "being a woman".

However, legal codes reproduce social constructions linked to inequalities and hierarchies between men and women, in order to justify the aggravated nature of certain aggressions by those in a privileged position, that is, men. Nevertheless, it does not mean that *only men* may be feminicide offenders, as in principle women can embody male chauvinist constructions to justify the murder of other women (Russell; Van de Ven, 1976).

Izabel Gomes (2018) criticizes the separation between feminicide and women's murdering. According to her, women's murdering is an always unequal practice when it comes to the gender dimension, while most women's murdering cases are interpreted in light of parameters that are devoid of gender criteria which fail to highlight the real number of deaths with misogynist and male chauvinist motives. Thus, the legal-definitional dimension is not able to reach a political-institutional interpretation of the phenomenon, insofar as the legal terms are the reification of pre-given social relationships. However, nomenclatures are important instruments to conceive political terms for legal terminology, and according to Ewerton Messias, Valter Carmo and Victória Almeida (2020, p. 13), the dignity of the human person must be the primary basis in the disputes for legal definitions. The significance of such a perspective lies in the fact that it marks the boundary between two alternative interpretations about a woman's killing and the gender dimension within that occurrence. Moreover, also the specific legal protection given to the victim's life often reveals political assumptions. The *femicide* perspective, for example, is often associated with the killing of a woman in a private relationship, with little margin to call into question State's responsibility. On the other hand, the *feminicide* perspective involves the appeal for synergic programs and general policies, as the State's responsibility is considered an integral facet of the phenomenon to be tackled.

Diana Russell and Nicole Van de Ven (1976, p. 17-18) were the first authors to use the term "femicide", back in 1970, based on the acknowledgement of discrimination, oppression, and inequality that, altogether, articulate violence against women. These authors aimed at uncovering the latent misogyny in these crimes, involving cultural, historical, and socio-political processes traversing the societal structure. On the other hand, they reported the illusory gender-neutrality in of the forensic and criminological terminology used for homicide cases. Thus, femicide was applied to all forms of sexist murdering (OACNUDH, 2014, p. 16).

In 1998, Marcela Lagarde (2006b, p. 218) adopted the term "feminicide" to feature the act of killing a woman, due to the gender dimension, with the 'female sex' relating to unequal power relationships. However, Lagarde (2006a), differently from Russel and Van de Ven, made an additional caveat about State's negligence for its specific responsibility in avoiding actions concerning the protection, investigation, and punishment of the aggressors. Therefore, there is a clear definitional *plus* in Lagarde's idea of "feminicide", construed as a "State crime" and "a fracture in the Rule of Law", that "favors impunity" (2006a, p. 20). From this perspective, the State is accomplice to crime, insofar as it is accountable for addressing violence against women synergically via other institutional means.

The *Latin American Model Protocol for the Investigation of Gender-related killings of Women*, designed by the Regional Office for Central America of the United Nations High Commissioner for Human Rights (OHCHR), adopts a "hybrid" use of the term *feminicide,* in its official English version, which aims at combining a focus on the active, violent, offender and the States' political dimension. The protocol sets the concept of *feminicide* as "the violent death of women due to gender issues, inside family environment, domestic unit or in any other interpersonal relationship, in community, by any person; be it perpetrated or tolerated by the State, and by its agents, through action or omission" (OACNUDH, 2014, p. 18). It should be highlighted that OACNUDH accepts the use of terms femicide/feminicide as synonyms. However, the interchangeable use of these concepts is not without problems. In this regard, Maria Berenice Dias (2015, pp. 54-5) advocates more emphasis on the social construction of violence, that is, the production of cultural cliches and inequalities at the level of governmental power, that set the social arrangements and the relationships between the dominant and the dominated ones. Allan Johnson (1997) aligns with such a perspective stating that individuals in a dominant position do not account for their actions and do not ask permission to act in certain ways within pre-given unequal relationships. It means that these individuals do not see violence as such; actually, they understand it as a natural unequal relation. From this perspective, the use of the term "feminicide" involves relational, social and political nuances linked to State's accountability. This is different from "femicide", which is much less related to public-sphere perspectives.

According to Rita Segato (2003, p. 23), the different uses of the aforementioned terms must be intended to avoid essentialism, that is, an 'essentialized' concept of woman which disregards the relational perspective of violence. This warning is also crucial to unify the agenda of movements focused on the "women's" issue, which demonstrates how the use of terms like feminicide/femicide is practical and political at the same time, as it involves how theoretical and empirical constructions can be used to serve emancipatory objectives.

According to Segato (2003), violence is not an isolated element, but a systemic process, a socially evoked message deployed through behavioral standards. At the same time, Bravo (2019) showed that legal instruments not necessarily outline the concept of "woman" in subordination and opposition to man as a natural characterization of roles, behaviors and stereotypes. In other words, there is a logic and a pedagogy not limited to individual anomalies of the offender, but rather proceeding from utterances and conducts whose violence is performed and stabilized by societal dynamics.

Caroline Grassi (2017, p. 101) understands that feminicide is a crime related to the patriarchal culture, that justifies the possession and domination of women's bodies, beyond the "right" over life and death. This statement advocates the idea that physical or non-physical forms of aggression are the premonitory signs, in violence against women, which often leads to feminicide. Karen Stout (1991) sees feminicide as an objective and subjective instrument of violence, because it is driven by motives of domination, overpower, contempt, morality and control structures within inequality dynamics between men and women. However, the goal of power expressions is to have control over life and death. It is also set as an end and a means because it is used as instrument to build a scenario where violence is the ultimate principle that organizes spaces, lives, life projects and social relationships.

Stela Meneghel & Ana Paula Portella (2017) understand that the underlying process of violence is often overlooked, as hideous aspects in feminicide are hardly analyzed. According to Dora Munevar (2012), it is necessary naming, giving visibility and conceptualizing the violent death of women; moreover, it is necessary to create a political perspective on feminicide.

Feminicide in Brazil: dispute for the concept of violence

Fiona Macaulay (2021) analyzed feminicide from the Latin American viewpoint and defined it as a recurrent issue addressed in policies, in the media and in debates about the skyrocketing victimization of women of women. These debates, mostly driven by the feminist agenda and feminist movements in Brazil, try to reduce this crime to the misogynous killing of women by men. Different governments in Brazil, during the 1970's, converted international agreements to local legislation, by understanding it as political issue for public policies, including the political defense of women and criminalization of violence against them. The process to incorporate these instruments faced a long period of disputes; the 2000's was a historical moment when violence against women drove the agenda in the country (Macaulay, 2005; Campos, 2003)

There was contrast between the increase in female homicide cases in Brazil and the nature of the proposals to fight this crime. Most proposals only addressed violence in generic terms, without conceiving the killing of women as part of a process of unsignifying women lives (Angotti & Vieira, 2020, pp. 55–61).These were challenges not limited to Brazil but concerning Latin America as a whole.

On the one hand, recognizing feminicide was an essential step in order to introduce legal changes. On the other hand, such a recognition also needed to take into consideration the "differences in differences", mainly in race and ethnicity, since Latin America comprises different territorial settings with multiple social and historical backgrounds (Villa, 2020, p. 77).

Although some polices to combat violence against women were enacted, as with Maria da Penha Law (11.340/2006), the agenda focused on strong interventions to impinge on social relations by criminal law measures, rejecting the idea of criminal law as a last-resort remedy. Feminicide was thus conceived as a gender-based social and political issue to be tackled - despite its social relevance - by creating specific 'gendered' offences, that is, offences the victim of which only can be women, not men (Saffioti, 2015; Xavier, 2019).

In 2011, a Mixed Parliamentary Committee of Inquire (CPMI, in Portuguese) about violence against women in Brazil issued a report that highlighted interesting statistics - and drew some conclusions - about Brazilian women's vulnerability to crimes against their lives. The report[2] highlighted a negative scenario, with many crimes driven by sense of possession, contempt, misogyny, male chauvinism and indifference towards women's lives staying under the radars because of their 'silenced' nature of crimes perpetrated at home by other family members.

The report by the Parliamentary Committee showed a series of elements potentially weakening the fight against this phenomenon: the disregard of a crime, in other words, the lack of perception of its heinous nature; the biased debate about the alleged unconstitutionality of a law criminalizing women's death; the dynamics of gun circulation; the insufficient means to report crimes, as well as the discredit of public agents in the exercise of their function. One of the final contributions contained in the report was a draft of a Bill to legally address the conduct of women's murdering, because of their gender, in criminal code.

This draft was sent to the National Congress and named Bill n. 292, which was issued as Federal Senate Project of Law – also known as PLS. It aimed at changing the Criminal Code and at including the qualifying circumstances of feminicide in article 121, which provides for the crime of homicide. This PLS was later taken to the National Congress as Bill (PL) n. 8.305/2014, which included the proposition to change art. 1, item I, of law n. 8.072/1990 in its original text, adding feminicide to the list of heinous crimes. Law n. 13.104/2015, also known as Feminicide Law, resulted from this PL, which was analyzed by the Congress – President Dilma Rousseff enacted it on March 9, 2015.

Article 5, item XLIII, of the 1988 Federal Constitution; and art. 1 of law n. 8.072/1990, provide for heinous crimes as those severely disapproved by society and that affect human dignity; therefore, they cannot be pardoned or bailed. In 2015, the Brazilian State recognized feminicide as a specific conduct of women's murdering due to their gender identification or to the simple fact of belonging to the female sex[3].

In 2014 the United Nations Office for Gender Equality (UN Women) published the *Latin American Protocol for the Investigation of Violent Deaths of Women for Gender Reasons*[4] , constituting the

[2] Report available at <https://www2.senado.leg.br/bdsf/handle/id/496481>. Accessed on August 25, 2021.

[3] It is important taking into account that the draft proposed by the Mixed Parliamentary Committee of Inquire was also added to the PLS provided on the "female gender" dimension; it avoided the biological aspect of the word "sex". Based on this legislative process, the original word was removed and replaced by "sex", since this word highlights the biological dimension that has been debated at legal scope by protective claims and by the legal application for transsexual women.

[4] Available at <https://www.onumulheres.org.br/wcontent/uploads/2015/05/protocolo_feminicidio_publicacao.pdf>. Accessed on August 25, 2021.

ground for the Brazilian Protocol in 2016[5]. This protocol describes a series of procedures on how to treat this crime, the offender and the victim. Notably, the Brazilian Guidelines reinforce the recommendation in favour of expressions such as "violence due to gender" and "feminicide" as part of a broader message according to which violent death of women due to gender is the result of gender-based social inequalities, rather than of individual facts. On July 22, 2020, the Ministry of Justice and Public Security issued the National Protocol of Investigation and Forensics for Feminicide Crimes, which was restricted to the civil police and to criminal forensic bodies. Feminicide, interpreted in light of the Brazilian legislation, encompasses contempt for the condition of being woman and a perceived inferiority as the element legitimating the violent act against the victim.

Segato (2013) states that feminicide is women's genocide, because this crime refers to a category, rather than to a specific individual, regardless of a gender perspective. According to Bravo (2019, p. 89), feminicide is the "extreme act of a continuous cycle of violence against women" that gives way "to maintain the patriarchal society". Moreover, feminicide is taken as the expression of masculine domination policies aimed at keeping the power of the patriarchal order. As stated by Heleieth Saffioti (2015), it is interesting outspreading the use of the term feminicide, because 'homicide' brings along a neutral basis that can reduce the sense of murdering based on gender issues.

This sense of naming a crime based on a gendered ground is not a trivial matter. Dawson & Carrigan (2020b) show that the act of identifying likely correlations, agents, and dynamics to properly name a given phenomenon has impact on the legislative production, on the generation of statistics and monitoring. Nevertheless, according to these authors, this process provides an academic input to the building of analytical categories about a given phenomenon.

This is the dynamics Gomes (2018) claims for, because disputes take place through different "feminisms" in the feminist epistemology. However, the crucial aspect, according to him, lies on talking about the patriarchal society and on locating this social structure as part of the "feminicide/femicide" production, because it regards a "necro-policy of gender aimed at ensuring the maintenance of the *status quo* and at forcing women to follow the established patriarchal rules" (Gomes, 2018, p. 5).

Bravo (2019) states that Brazil provides institutional conditions for violence, because the legislation prior to the Maria da Penha and Feminicide laws, mainly before 2006, when law n. 11.340 was in force, favored impunity. 22 years have passed between the ratification of the Convention to Eliminate All Forms of Discrimination Against Women (CEDAW), in 1984, in Brazil, through Decree n. 89.460[6] (which deals with violence and discrimination against women) and the enactment of Maria da Penha Law. This process motivated, in part, Brazil's condemnation by the Inter-American Commission for Human Rights, in 2001[7], with two reports by two parliamentary inquiry committees (1992 and 2011) on violence against women proving this negligence.

Law n. 13.104, of March 9, 2015, changed art. 121 of the Brazilian Criminal Code, and added *feminicide* as qualifying circumstance of homicide and changed art. 1 of law n. 8.072/1990, in order

[5] Available at <https://www.onumulheres.org.br/wp-content/uploads/2016/04/diretrizes_feminicidio.pdf>. Accessed on August 25, 2021

[6] Later revoked by Decree n. 4.377/2002.

[7] Available at: <https://www.cidh.oas.org/annualrep/2000port/12051.htm>.

to include this offence in the list of heinous crimes. Feminicide is laid down in the Criminal Code as crime against women's lives "due to the condition of belonging to the female sex", such as "domestic and family violence" (item I) and "contempt or discrimination to the condition of being woman" (item II).

We must highlight that the use of the term "female sex" in the Brazilian law (and in general) is not any nomenclature, but a clear choice to remove the term "gender", contained in the original Bill, and to give a purely biological meaning to the concept of "woman". It does not mean that this law has not been applied in State Courts to transsexual women. However, this choice reflects social relationships of power, because the use of biological terms, such as "sex", creates sociological and juridical views towards a specific image of the victims to be protected. According to Macaulay (2021, p. 35), "Brazil's feminicide law refers to 'women' due to the last-minute removal of the word 'gender' in order to exclude transgender women from this text".

In addition, this biological standpoint dissociates violence from the gendered social and relational perspective of violence. It does not discuss violence itself; it only punishes the biological man and "protects" the biological woman.

Disputes about the concepts of violence and women were part of law-making and political processes, including debates concerning transgender women, which are highly vulnerable to hate crimes (Benevides & Nogueira, 2020, p. 29). The change made in art. 121 of the Brazilian Criminal Code introduced feminicide as a qualified homicide. Thus, Brazil set a trend at odds with the current one in most Latin American countries, which address feminicide as an autonomous crime. Consequently, assessing the impact of the Brazilian criminal policy on statistical records through a disaggregated pictures of data is very hard. Also in light of these hurdles, the National Congress is analyzing Bill n. 4.196/2020, and explore the possibility of framing feminicide as an autonomous crime, in an attempt to reduce the interpretative margin, while pondering at the same time the use of the expression "gender reasons" instead of "sex".

Paragraph 7, of article 121, increases by 1/3 to 1/2 the penalty if the crime is practiced based on five specific cases, namely: 1) at pregnancy or a few months after delivery; 2) against people under 14 years old, over 70 years, or against people with disability or those carrying degenerative illnesses that lead to limiting conditions or to physical and mental vulnerability; 3) in the presence of the victim's descendants or ascendants; 4) in the physical or virtual presence of the victim's descendants and ascendants; 5) for not following the urgent protective measures provided on items I, II and III of the main section or in art. 22 of law n. 11.340, from August 7, 2006.

There is an ongoing dispute in Brazil about the interpretation of feminicide as an objective or a subjective qualifying circumstance. The first line of thinking is advocated by Guilherme Nucci (2014), according to whom, the objective nature of the circumstance inheres in the victim's gender, i.e., in the fact of being biologically a woman. On the opposite side, Alice Bianchini (2016) supports the understanding of feminicide as a subjective qualifying circumstance, where the subjective dimension lies in perceiving sex and gender as elements boosting violent actions.

There is a third line of thinking observed in contemporary legal debates, which consists in framing feminicide as an autonomous crime, that is, a crime legally defined not as a circumstance aggravating the base-type homicide, but an offence to be interpreted on the basis of its own

constitutive elements. Such a legal framing may help deepening the social disapproval towards the phenomenon and could also enable more transparency reducing judges' discretion by the qualifying circumstances to the judge compared to the interpretation of qualifying circumstances, as well as delivering more accurate and granular crime statistics. As Cezar Bittencourt (2018) points out, as far as feminicide is a qualifying circumstance, gender is turned into an accessory element of the punishment for the offender.

According to Carlos Garcete (2020), criminal conducts against human life represent autonomous crimes, whereas considering feminicide as a qualifying circumstance would devalue the offender's violence towards the life of a woman.

The typification of feminicide as an autonomous crime is also the choice made by the author of the draft Law n. 4.196/2020, Fabio Trad, to change law 13.104/2015, currently in force, and to introduce a separate article 121-A corresponding to feminicide. The understanding of the Bill's author lies on the idea that the gender violence culture requires an independently defined criminal offense capable of addressing this crime as reprehensible at a larger scale. Nevertheless, the text advocates for replacing the term "condition of female sex" with "condition of female gender".

Briefly, Brazil faced a context where numbers of female homicide, and the contexts where they happen, are associated with unequal relationships of power that are the target of the agenda of violence against women. The feminicide law was enacted, but not without disputes, as observed in the case of the term "sex conditions" to feature a gender-based murder against women as feminicide. The subsequent question about what women are protected from raised other issues, such as the place of transgender women in application of law.

Feminicide as an international issue in Latin America

According to Segato (2013), Saffioti (2015), Xavier (2019) and Villa (2020), international conventions fighting violence against them or prompting their rights had significant impact on the claim for changes in political and law-making processes. These conventions also had impact on feminist movements as the main interpreters of claims for rights and new forms of language that can reach the law-making agencies. Since the 1970's, the challenge has been the creation of concepts that would ensure greater homogeneity of laws, policies and programs, at an international level.

Article 1 of the Convention to Eliminate All Forms of Discrimination Against Women (CEDAW) defines "discrimination towards women" as "distinction, exclusion or restriction based on sex; and that has as its object, or results in, the act of harming or nulling the acknowledgement, enjoyment or exercise of women" when it comes to "human rights and fundamental freedoms in the political, economic, social, cultural and civil fields, or in any other field" (UNITED NATIONS, 1979). According to CEDAW, violence, *per se*, is a discriminating act only when it denies the acknowledgement of a person's right to a dignifying life; notably, to a violence-free life. An important aspect of CEDAW is the fight against discrimination through a double line of action: first, at a domestic level, by the creation of public policies; second, at an international level, by establishing follow-up committees to track the development of the first and monitor violence and discrimination cases.

The UN Declaration on the Elimination of Violence against Women (also known as 1993 Vienna Declaration), is another milestone in this field. Ronagh Mcquigg (2011), Dawson & Carrigan

(2020a), Joseph (2017), Kimelblatt (2016) and Macaulay (2021), for example, understand that women suffer violations in their human rights sphere mainly because of domestic violence, due to violence and discrimination contexts. This global dimension was already recognized by CEDAW in its Recommendation n. 19. The Vienna Declaration takes violence against women as a violation of both individual freedoms and human rights. The Declaration states, in its art. 18, that "the human rights of women and girls are inalienable, and they are an integral and indivisible part of universal human rights", because "violence and all forms of abuse […] are incompatible to the dignity and value of the human person, so they must be ruled out". Article 30 highlights the concern by the international community with "clear and systematic violations that are serious obstacles to the full exercise of all human rights", among them "discrimination against women". Accordingly, art. 38 states "the importance of working towards ruling out all forms of violence against women in the public and private life".

The 1994 Organization of American States' (OAS) Belém do Pará Convention, held in Pará State – Brazil, is clear about qualifying violence against women as a "violation of both human rights and fundamental freedoms", proceeding from "the manifestation of historically unequal power relationships between women and men". Article 1 of Belém do Pará's Convention defines violence against women as "any act or conduct based on gender that can cause death, damage or physical, sexual or psychological suffering to women, either at the public or private sphere". This is a standard definition to the determination of legislations on the definition of violence in Latin America.

Feminicide is a critical issue in Latin America. According to data by the Gender Equality Observatory for Latin America and the Caribbean[8], based on absolute numbers, Brazil, Mexico, Honduras, Argentina and Colombia led the 2019 ranking of deaths. In addition, Brazil concentrated 42.6% of feminicide cases in Latin America in this same year (1,941, in comparison to the 4,555 cases); in 2018, it was 41.2%; in 2017, 38.6%; in 2016, 42.3%. From 2014 onwards, when Argentina started counting data, it accounted for 16.4% of cases. In 2015, when Mexico started recording such data, it accounted for 20.1% of cases. Brazil started registering these data in 2016 and, according to the Observatory, it leads feminicide cases in the Latin American region. According to Anna Alvazzi del Frate (2011), this region is featured by high death frequency of women for feminicide and Janice Joseph (2017, p. 17) points out the death of 1 woman every 30h, in certain Latin American countries. Mihaela Racovita (2015), who collected data from countries such as Honduras, El Salvador, Brazil, among others, has shown records eight to twenty-four times higher than those recorded in Europe and Canada. However, it is important taking into account that this process does not concern a crime exclusive to Latin America, as Karen Stout's (1991) studies from the 1980s and 90s in the US demonstrate, or other previous works by Lagarde (2006a) in Mexico, by Mcquigg (2011) in Europe and Latin America, and by Prieto-Carrón, Thomson & Macdonald, (2007) in Central America.

However, this does not mean that Latin American figures are just a numerical contingency. They rather result from local features that perfectly integrate male chauvinist and misogynist traits into the social, historical and political structure. Meredith Kimelblatt (2016) argues that this region

[8] Available at <https://oig.cepal.org/pt/indicadores/feminicidio-ou-femicidio>. Accessed on August 28, 2021.

accounts for high gender-related social, economic, educational, political, legal and institutional inequalities, while Samantha Luffy, Dabney Evans & Roger Rochat (2015) denounce forms social vulnerability that systematically weaken women's lives.

Based on Tamar Wilson (2014), this set of features typical of Latin America boost social exclusion mechanisms, as well as domination, because women end up not having the effective means that would enable them to either limit or avoid violence and thus break the dependence structures. Such a reduced agency, in association with male chauvinism and misogyny, increases the margins for unpunished violence, to the extent that the actions put in place against it encounter further resistance in their deployment. In that respect, Rosa-Linda Fregoso & Cynthia Bejarano (2010) understood that slow criminal proceedings and policies are little effective responses to the urgency of this problem. Karen Musalo & Blaine Bookey (2014) share the same idea and argue that Latin America lacks public policies based on the specific awareness of the implications of violence against women – in some cases even of general violence -, with laws that systematically risk having little applicability for the formulas and definitions they employ.

According to Joseph (2017, p. 19-20), the law-making movement in Latin America placed the first milestones only in the early 21st century. International sentences to States put pressure over standardizing texts that aim at protecting women and at punishing offenders. This author understands that the use of terms feminicide/femicide has a purpose. Firstly, it aims at greater actions based on legal and political approaches, such as fighting biological perspectives and articulating domestic violence programs to criminal policies; secondly, they are commonly used as criminological terms.

Feminicide Laws in Latin America

In this section, I analyze eighteen legislations from Latin American countries aimed at fighting women's death due to their gender condition. The selection consisted in focusing on those countries that have specific laws on femicide/feminicide or on "women's death due to gender" – and led me to isolate eighteen countries. Seventeen countries use the terms femicide/feminicide; only Argentina opted for the term "women's death". Some countries did not have laws regarding women's death due to gender, until 2020.

I will use the terms femicide and feminicide, depending on the legal term in use in each country. I also assume that comparing in detail eighteen countries exceeds the scope of this article. Therefore, I develop a comparative perspective about similarities and differences between them, mostly to gauge the use of the terms "femicide" and "feminicide" in association with the existence of synergic policies and programs other than criminal law measures.

Briefly, between 2007 and 2009, only two countries – Costa Rica and Guatemala – created a legislation on the herein addressed topic.

Between 2010 and 2014, eleven countries created their legislations, namely: Peru, El Salvador, Nicaragua, Mexico, Argentina, Bolivia, Honduras, Panama, Ecuador, Venezuela and Dominican Republic. Brazil, Colombia, Paraguay, Uruguay and Chile were the last countries to develop their legislation, starting in 2015. We must highlight that Belize, Cuba, Guyana, French Guiana, Haiti, Puerto Rico and Suriname do not have specific laws for feminicide or for women's death or these laws could not be accessed at the time this research was conducted**.** Therefore, we opted not to

include these countries in the study, as their legal texts do not have specific provisions about the topic analyzed here.

Feminicide/femicide in Latin America between 2007 and 2009: Costa Rica and Guatemala

Femicide has been included in the Costa Rica Criminal Code through the *Ley de Penalización de la Violencia Contra las Mujeres*, n. 8589 from April 25, 2007[9]. Article 2 provides for the scope of this law, which is limited to marital relationships - declared or not - as well as to the application of cases regarding 15 to 18-year-old girls in relationships that are not associated with parental exercise. Accordingly, differently from most countries in Latin America, the legislation on violence towards women in Costa Rica has associated this manifestation with marital relationships, a fact that quite limits the reach of the law. Article 21 states the concept of feminicide as death of women when it is related to marital relationships (be this formalized or not) – with the penalty ranging from 20- to 30-year imprisonment. In addition to the prison penalty, the disqualification penalty provided for by article 17 inhibits offenders from occupying public functions and assuming trusteeship of property (penalty time ranges from one to twelve years).

Decree n. 22 of May 7, 2008, was enacted in Guatemala[10]. The Decree regulates femicide and other forms of violence against women, by acknowledging the entanglement of femicide, misogyny and power relationships in article 3. By addressing femicide as violent death of women due to unequal power relationships between men and women fueled by misogynist contempt, the reach of the law is clearly not only legal, but also political-institutional, since it sets the unequal relationship between men and women as the starting point of the social structures under assessment. Article six addresses femicide as death of women just because of the condition of being a woman; it lists eight likely circumstances for this crime, and it highlights femicide in Guatemala as autonomous crime, rather than a circumstance qualifying the crime of homicide. The penalty to feminicide ranges from 25 to 50-year imprisonment. Article 10 provides for an aggravating circumstance without indicating increase in penalty as a necessary outcome. Two aspects of Guatemala legislation appear particularly innovative: first, art. 9, which prohibits the offender to use cultural or religious excuses to justify its act or to plea innocence; second, arts. 12 and 13, according to which, the State is accountable both for ensuring that the offender will repair the victim and for possible omissions by public officers.

Feminicide/femicide in Latin America between 2011-2014: El Salvador, Nicaragua, Mexico, Argentina, Peru, Bolivia, Honduras, Panama, Ecuador, Venezuela and Dominican Republic

Decree n. 520 of December 14, 2010 introduced in El Salvador the *Ley Especial Integral para una Vida Libre de Violencia para las Mujeres*[11]. It states that violence against women is based on inequality between men and women, and on historical and social processes substantiated by power

[9] Available at: http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=60183&nValor3=98550&strTipM= .

[10] Available at: https://www.congreso.gob.gt/assets/uploads/info_legislativo/decretos/2008/22-2008.pdf .

[11] Available at: https://escuela.fgr.gob.sv/wp-content/uploads/Leyes/Leyes-2/ARCHIVO-CORTE-SUP-LIEV-8B435.PDF .

inequality. The main innovation in the Salvadoran law can be observed in article 10, which defines three different modalities of violence – community violence, institutional violence, workplace violence – in connection to the different contexts where it can take place. Pursuant to art. 45, feminicide is the death of a woman due to hate or contempt for her condition of being woman; the penalty ranges from 20 to 35-year imprisonment, while the occurrence of hate or contempt is gauged on five circumstances: previous violence by the same offender, abuse of vulnerability, abuse of hierarchy, previous sexual abuse, and previous mutilation. Feminicide is described as an autonomous crime in which the offender is not generalized, while the victim is only woman in a biological sense. Pursuant to art. 58, any conciliation measure is forbidden for feminicide cases. Finally, article 46 introduces a qualified feminicide based on five aggravating circumstances that may increase the penalty up to 50 years.

The violence-against-women issue is tackled in Nicaragua by the *Ley Integral Contra la Violencia Hacia las Mujeres* – law n. 779 of 2012[12], which introduced important changes to the Nicaraguan Criminal Code. In its very preamble, the law considers gender violence a perverse reality, which violates the rights and integrity of women and requires specific protective, preventive, and punitive mechanisms. Article 2 clarifies that the legal scope covers both public and private places where violence against women is exerted in an episodical or repeated way (similar to the Paraguayan law). Article 9 typifies femicide as an autonomous crime involving the death of a woman in public or private spaces, practiced by a man against a woman within the framework of unequal power relationship, in any of eight possible circumstances listed in the same provision. It is worth noticing the inclusion of sexual intercourse denial as one of the circumstances providing the legal preconditions for feminicide, since the sexual act performed without consent within a marital relationship is also a violent act against women. Article 9 also makes a distinct dosimetry between femicide[13] crimes committed in public spaces - penalty ranging from fifteen to twenty years in prison – and those taking place in private places – penalty time ranging from twenty to twenty-five-year imprisonment. In both cases, if there were two or more concurring circumstances, the maximum penalty would be automatically applied. This law was reformed in the last few years: some critics state that it is too penalizing and intentionally weakening the effectiveness of the law – while also the concept of femicide has been contested (Neumann, 2021).

Feminicide in Mexico was integrated in the Criminal Code by the *Ley General de Acceso de las Mujeres a una Vida Libre de Violencia*, of June 14, 2012[14]. Feminicide is contained in the chapter about offenses against life (art. 325 of the Criminal Code) and is defined as the death of a woman due to gender reasons in seven possible circumstances, with the penalty ranging from forty to sixty years in prison plus fine. Sexual violence, family violence, marital relationships and exposure of the victim's body are contemplated as aggravating circumstances. The law does not mention the offender's gender, but it does mention the victim's one. Feminicide in Mexico is an autonomous

[12] Available at: http://legislacion.asamblea.gob.ni/SILEG/Iniciativas.nsf/0/8f45bac34395458c062578320075bde4/$FILE/Ley%20No.%20779%20Ley%20Integral%20contra%20la%20Violencia.pdf

[13] There was no justification in the Criminal Code and in Law n. 779, from 2012, highlighting the reason for the difference in penalty.

[14] Available at: https://mexico.justia.com/federales/codigos/codigo-penal-federal/libro-segundo/titulo-decimonoveno/capitulo-v/#articulo-325

crime, albeit linked to a broad range of subjective and objective aggravating circumstances enshrined in the Criminal Code. An important caveat is that Mexico was sentenced by the Inter-American Court of Human Rights in 2009 for the feminicide of three women in the case "Gonzales vs Mexico", which rose awareness about the need to change the criminal code[15].

Argentina enacted law n. 26.791 in late 2012[16], thus making modifications to the Criminal Code that in its articles 80 to 89 regulates homicide and establishes penalties ranging from eight to twenty-five years. Article 14 states that offences described in art. 80 are by definition heinous. Pursuant to article 80, homicides related to gender-violence are punished with life imprisonment and are defined by some circumstances indicated by paragraph 1 (marital relationships), paragraph 4 (hate for gender or gender identity), paragraph 11 (homicide of women practiced by men due to gender violence) and paragraph 12 (homicide practiced to make the person whom the offender had sex with suffer) of the same article. The terms feminicide or femicide are not used in the Argentinian law, where only the expression "death of women" practiced by a man is trackable. At the same time, there are no lists of circumstances to interpret women's death as deaths due to their woman condition; there are only four general guidelines that contemplate marital relationships, gender violence or suffering. Importantly, in Argentina, the murdering of women due to their female condition is not an autonomous crime, but it is a subjective qualifying circumstance of the base type of homicide, leading to its highest possible penalty: life imprisonment.

Peru enacted law n. 30.068 on July 18, 2013[17], containing changes to the Criminal Code to prevent, punish and rule out feminicide. This law, in its art. 2, lays down the new art. 108-A of the Criminal Code, which defines feminicide as "death because of the condition of being woman", limited to four possible contexts: family violence, coercion or sexual harassment, power harassment in trust and contractual relationships, any form of discrimination within marital relationships or while living with the offender. Penalty for this crime ranges from fifteen years (minimum) to twenty-five years; seven aggravating circumstances are set, spanning from age of pregnancy, impossibility to resist, sexual violence or mutilation, and human trafficking. Accordingly, the crime of feminicide is framed as an autonomous one and, although the code does not clearly refer to that, it indirectly outlines the most common forms of violence against women occurring in Latin American countries.

Law n. 348 was enacted in Bolivia on March 9, 2013[18]; regarding the *Lei Integral para Garantir às Mulheres uma Vida Livre de Violência*. The Bolivian law highlights fighting violence and discriminations against women as national policy priorities that must be pursued by coordinating different governmental spheres (arts. 3 and 5) around fourteen guiding values concerning the guarantee of women's rights (art. 4). Innovations were presented in definitions of "violence situation", "non-sexist language", and "assumptions sensitive to gender" as part of public policy propositions. With respect to feminicide, the Bolivian law acknowledged the impossibility of covering feminicide cases by resorting to art. 254 of the Criminal Code, which deals with homicide due to violent emotion. The same applies for art. 265, which provides for induction to suicide due to

[15] Available at: https://www.corteidh.or.cr/docs/casos/articulos/seriec_205_por.pdf
[16] Available at: http://servicios.infoleg.gob.ar/infolegInternet/anexos/205000-209999/206018/norma.htm
[17] Available at: https://cdn.www.gob.pe/uploads/document/file/269096/240198_Ley30068.pdf20190110-18386-1ssm4vl.pdf
[18] Available at: https://siteal.iiep.unesco.org/sites/default/files/sit_accion_files/bo_0267_0.pdf

violence cases. Other changes in the Code are observed in art. 154, which addresses the crime of not following protective measures related to violence against women. Art. 252, which provided on crime of feminicide and whose penalty is thirty years in prison, is based on nine circumstances – and offenders have no right to pardon. As a result, feminicide in Bolivia is an autonomous crime that can have aggravating circumstances, while there is no mention of offenders' gender.

Decree n. 23 of April 6, 2013, was enacted in Honduras[19] to introduce femicide in the Honduran Criminal Code. This decree stands as a declination of art. 59 of the Honduran Constitution, which states the human person as the very end of both the society and the State, inviolable in its dignity and right to life, as also laid down in art. 6 of Constitution. The text of the Decree also states the commitment to CEDAW and to the Belém do Pará's Convention, which obliges the State to protect and guarantee the prevention, investigation and punishment of violence against women. The creation of art. 321-A was the main innovative aspect, since it criminalized communication and broadcast media that outspread contempt and hate contents related to gender violence listed in art. 321. Feminicide is regulated by art. 118-A, which defines it as the death of women perpetrated with contempt and hate for gender-related reasons in four different cases provided for in the same article. Penalties consist in prison terms ranging from thirty to forty years, with few aggravating and mitigating circumstances susceptible to come into play. Femicide in Honduras is an autonomous offence and the active offender is defined as belonging to the male sex.

On October 24, 2013, Panama enacted law n. 82[20], which takes preventive measures towards violence against women, and typifies the crime of femicide along with other offences. Femicide in Panama is inserted in the Criminal Code, in art. 132-A thereof, where it is addressed as an offence against life within the homicide section. This article frames femicide as an autonomous crime substantiated by a casuistry of 10 possible contexts in which a woman is killed, like marital and trust relationships, crime in the presence of children, abuse of physical and psychological vulnerability, be the result of group rites or revenge, contempt for the victim's body, body exposure or be the victim a pregnant woman. Penalty ranges from twenty to thirty-year imprisonment. The offender is not characterized in terms of sex or gender, while the passive agent is a woman, as the clause "condition of being woman" at the last point of the same article clarifies.

The Criminal Organic Integral Code of Equator, enforced on January 28, 2014[21], provides for femicide and violence against women in the Ecuadorian system. Femicide is addressed as a crime against life in art. 141, where it is defined as the death of a woman due to power relationships expressed through any type of violence due to her gender condition – penalty ranges from twenty-two to twenty-six years in prison. Femicide in Equator is an autonomous crime and pursuant to art. 73, pardon is not admitted. The offender's sex is not specified, while the victim is a woman. Article 142 establishes the four aggravating circumstances for femicide: victim's denying the relationship;

[19] Available at: http://www.poderjudicial.gob.hn/transparencia/regulacion/diariooficiallagaceta/Documents/Decreto%2023-2013%20reforma%20al%20Codigo%20Penal.pdf

[20] Available at: https://inamu.gob.pa/normativa/ley-n82-de-23-octubre-2013-que-tipifica-el-femicidio-y-la-violencia-contra-la-mujer/

[21] Available at: https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/ECU/INT_CEDAW_ARL_ECU_18950_S.pdf . Accessed on August 26, 2021.

previous marital, family, intimate, friendship and companionship, labor, school relationships, or any other relationship that is linked to gender hierarchy dimensions; crime committed in the presence of the children; victim's body exposure in public places.

On November 25, 2014[22], Venezuela adopted law n. 40.548 which contains the *Ley Orgánica sobre El Derecho de Las Mujeres a una Vida Libre de Violencia*. This law was inspired by the Declaration of Rights of Women, by Olympe de Gouges. It understands the gender issue as having deep roots in societies' patriarchal order. Femicide in Venezuela is addressed as an extreme form of gender violence (item 20 of art. 15), with penalties ranging from 20 to 25 years in prison, as provided for by art. 57. This last article lays down six cases corresponding to the forms of hate or contempt for women substantiating the precondition for femicide. Article 58 establishes four aggravating circumstances when femicide is committed within (or for the purpose of): intimate relationships, professional subordination, contempt for the female body or the fulfilling of sexual instincts, trafficking in women and other crimes by criminal networks. Therefore, femicide in Venezuela is an autonomous crime combinable with aggravating circumstances. Article 59 provides for other aggravating circumstances for the case of women's induction to suicide. Articles 57, 58 and 59 of *Ley Orgánica*, which concern femicide, make it clear that the passive agent of femicide violence is gender-based, and it opens a window for overcoming biological dimensions; however, the offender is ambiguous, since the law does not necessarily refer to the male sex; it only applied the world "masculine" in a universal linguistic concept.

The law n. 550, of December 19, 2014[23] - the most synthetic among the legal texts assessed here - introduced changes to the Dominican Republic's Criminal Code, by referring to Violence against women in art. 123 as any action or conduct, public or private, which causes physical, sexual or psychological harm or suffering to women on the basis of their gender, through the use of physical force, violence (psychological or verbal), intimidation or persecution. Penalty ranges from two to three years in prison. This is an innovation of the Dominican law, since it is not common associating the forms of violence with the gender aspect. As for the feminicide regulation, this is not easy to be interpretatively outlined. Article 98 of the Criminal Code regulates the base type of homicide, while article 99 provides for the aggravating conditions that can increase the penalty to 30-40 years. Line "i", in its paragraph 4, addresses a qualified form of homicide as the death "of any person due to its gender, sexual preference or orientation". However, feminicide in the strict sense is referred to in art. 100, where the offender is defined as "who, in the context of having, having had or intending to have a relationship with a partner, intentionally kills a woman". Penalty ranges from 30 to 40 years (in accordance with the aggravating circumstance described in art. 99). The Criminal Code in the Dominican Republic considers feminicide as a subjective qualifying circumstance of homicide, despite its description in a separate article. Nevertheless, the offender in feminicide cases has no defined sex, while the victim is a woman without allusions to the term "gender".

[22] Available at: https://oig.cepal.org/sites/default/files/2014_ven_feminicidio_ley_organica_sobre_derecho_de_mujeres_a_una_vida_libre_de_violencia_25_11_14-1.pdf

[23] Available at: https://siteal.iiep.unesco.org/sites/default/files/sit_accion_files/do_0326.pdf

Feminicide/femicide in Latin America between 2015 and 2020: Colombia, Paraguay, Uruguay and Chile

Feminicide is included in the Colombian Criminal Code; it is expressed by law n. 1.761 of 2015[24], which changed the chapter concerning homicide. Feminicide was included in art. 104-A as death of women due to their condition of being woman or due to gender identity in pre-established cases comprising: marital, companionship and trust relationships; labor relationships; physical, sexual, psychological, and previous patrimonial violence. Penalty ranges from 250 to 500 months in prison. Article 104-B enumerates seven aggravating circumstances of feminicide that can rise penalty from 500 to 600 months in prison. Item 2, in art. 119 of the Criminal Code, was also changed to double the penalty in case of crime against children. Accordingly, feminicide in Colombia is an autonomous crime whose offender is not specified in terms of gender, but the passive subject is a woman.

Paraguay enacted law n. 5.777 on December 6, 2016[25] concerning "Full Protection to Women Against all Forms of Violence". The Law was primarily created to set prevention policies, punishment strategies, and full reparation mechanisms to victims of violence against women in public or private places. Feminicide is described in art. 50 as the killing of a woman due to her female condition in six different cases: marital and trust relationships, family bonds, death resulting from other forms of physical, sexual, psychological or patrimonial violence, abuse of formal hierarchy or of power relationships, denial of establishing or re-establishing a partner relationship with the offender. Penalty ranges from ten to thirty years in prison, without aggravating circumstances. Feminicide in Paraguay is an autonomous crime that does not mention the offender's sex, but the victim belongs to the female sex.

Uruguay enacted law n. 19.538 of October 9, 2017[26], introducing changes to articles 311 and 312 of the Criminal Code in relation to *Actos de Discriminación y Femicidio.* One of the more innovative aspects adopted by the Uruguayan Code lies in the nomenclature of title XII: "Of Offenses against Man's Physical and Moral Personality"; in other words, it embodies a 'gender' connotation that understands man as universal subject in a criminal law perspective. The death of women due to marital relationships, sexual crime or crime committed in front of underage individuals in Uruguay is a special aggravating circumstance provided for in par. 1 art. 311 and applied to the basic offence of homicide under art. 310. Femicide, in its turn, is interpreted as a special aggravating circumstance laid down in paragraph 8 art. 312, as "crime against women due to hate or contempt, given their condition of being woman". Penalty ranges from 15 to 30 years in prison. Thus, femicide in Uruguay is a subjective qualifying circumstance of the crime of homicide, whose offender has no defined sex, but the victim is a woman. Uruguay has also enacted law n. 19.580[27], *Ley de violencia hacia las mujeres basada en género*, containing modifications to civil and criminal codes; its art. 6 defines femicide violence as a form of violence against women and proposes programs and policies to combat it.

[24] Available at: http://www.suin-juriscol.gov.co/viewDocument.asp?ruta=Leyes/30019921
[25] Available at: https://www.bacn.gov.py/leyes-paraguayas/8356/ley-n-5777-de-proteccion-integral-a-las-mujeres-contra-toda-forma-de-violencia
[26] Available at: http://legislativo.parlamento.gub.uy/temporales/docu7286977486936.htm
[27] Available at: <http//www.impo.com.uy/bases/leyes/19580-2017>

On March 2, 2020, Chile enacted law n. 21.212[28], which has changed the Chilean Criminal Code typifying the crime of femicide, and law n. 18.216 about the Criminal procedure. The first change concerned art. 372, which provides for sexual crimes whose violence results in the victim's homicide; when the victim is a woman the offense will be analyzed as femicide. Another change was made to differentiate simple homicide (art. 391) from femicide (art. 390-bis). Femicide is addressed as a crime against life based on marital and companionship relationships 390bis; the death of women due to gender (five possible cases under art. 390-ter). Art. 390-quater establishes four aggravating circumstances in the event that: the victim is pregnant; the victim is a girl or adolescent under eighteen years of age, an elderly woman or a woman with a disability; the crime is performed in the presence of ascendants or descendants of the victim; the crime is performed in the context of habitual physical or psychological violence of the perpetrator against the victim. Art. 390-quinquies prevents the application of mitigating measures in case of femicide. Penalty for crime of femicide in Chile is life imprisonment. Considering the above, femicide is an autonomous crime in Chile. It is important highlighting that the Chilean law ratifies that the offender is a man, and the victim is a woman (it is based on the gender dimension).

Discussion

The lawmaking on feminicide/femicide in Latin America is relatively new, because of multiple factors that have propitiated its advent in the last decades (Angotti & Vieira, 2020; Bianchini, 2016; Bravo, 2019; Dawson & Carrigan, 2020b; Grassi, 2017; Lagarde, 2006b; Luffy; Evans; Rochat, 2015; Macaulay, 2021; Munevar, 2012; Prieto-Carrón; Thomson; Macdonald, 2007). First, because of the influence of both feminist movements and lobbies to achieve Congress or other political and juridical agencies with decision-making competencies about standards and laws. Second, because of the impact of international regulations, such as conventions or agreements/resolutions, mainly the CEDAW and the Belém do Pará's Convention. Third, because of the elaboration of data about women's death and the public discussion on it in spaces like the media, academia, or the legislative branches. Fourth, because of convictions by international courts, as it happened with Brazil and Mexico, demanding new forms of protection against and punishment towards this crime.

The debate about feminicide, according to Macaulay (2021), Meneghel & Portella (2017), Messias, Carmo and Almeida (2020) and Munevar (2012), involves concepts and categories associated with protection and punishment, as victim and aggressor are addressed in the discussion.

The analysis of laws in Latin America between 2007 and 2020 has shown that the guiding principle is the belief that feminicide can be effectively ruled out by prison punishments and criminal law measures. In other words, that criminal law is the natural remedy (Segato, 2003; Tavarez, 2018; Villa, 2020; Xavier, 2019). Patsili Vásquez (2012, p. 203) understands feminicide as category that must be faced by legislative representatives as a criminal law matter.

Discussions about how feminicide (as homicide) is to be understood in light of broader social and political relationships are lacking or at most relocated to other policies or programs if they exist. However, few nations provide public policies to fight and prevent domestic violence based on the broader perception of violence against women as feminicide.

[28] Available at http://bcn.cl/2d9oa

Costa Rica was the first country to create these new legislations in 2007, while Chile was the last country to enact its legislation on this topic in 2020. One can observe the intensification of the Feminicide/Femicide Agenda in Latin America after the discussion on "high-profile" cases by the Inter-American Committee for Human Rights (ICHR-AEO) and by the Inter-American Court of Human Rights (IACHR or IACtHR), in the first decade of 21st century (e.g., Maria da Penha and Cotton Field cases). These rulings were not just domestic cases, but rather emphasized windows of opportunities for the discussion about the significance of violence against women based on gender. With respect to Brazil, fourteen years elapsed between the Commission's ruling and the enactment of legislative changes, while in Mexico it took three years. The most productive phase corresponds to the period between 2010 and 2014, when 11 countries have elaborated their texts on this subject.

The main strategy adopted by twelve of the eighteen countries (Guatemala, Mexico, Argentina, Peru, Honduras, Ecuador, Dominican Republic, Colombia, Brazil, Paraguay, Uruguay and Chile) only focused on changing their Criminal Codes (CC). Six countries (Costa Rica, El Salvador, Nicaragua, Bolivia, Panama and Venezuela) accompanied the changes in their Criminal Code with the elaboration of general laws to public policies aimed at fighting violence towards women. They also interpreted women murdering based on sex/gender as an act of extreme violence.

Overall, the nomenclature adopted seems not follow necessarily the caveats on gender violence and misogyny made by authors like Russel and Nicole Van de Ven (1976) or Marcela Lagarde (2006a) in relation to the proper use of the term to highlight the specific death of a person due to gendered-based violence, power and discrimination relationships. Rather, the legislative production focused on providing a criminal law response; they did not discuss why women are murdered due to their gender[29].

Nine countries adopted the term femicide, whereas eight countries used feminicide; Argentina, in its turn, adopts the expression "death of women". If we take as reference Marcela Lagarde's use of "feminicide" - which highlights State's responsibility -, only seven countries (Guatemala, El Salvador, Bolivia, Honduras, Panama, Venezuela and Paraguay) expressly mentioned the role of the State as (co)responsible agent for this crime, be it for the elaboration of public policies or for being the direct or indirect sponsor of reparations to this act of violence. Among those who adopt the term "feminicide", only two countries (El Salvador and Bolivia) have created a criminal legislation based on programs to fight violence, whereas four countries (Costa Rica, Nicaragua, Panama and Venezuela) did the same while adopting the term "femicide", which would have a stricter criminal logic in its essence. Yet, only three countries, among the ones that have used the term "feminicide", have also mentioned the State, whereas four countries mentioned "femicide". Regarding countries that only made changes in their criminal codes, five have used "femicide", six used the term "feminicide" and only one called this crime "death of women". Such a perspective can be observed in Chart 1, below.

Chart 1. Institutional dimensions of feminicide/femicide laws in Latin America

Country	**Year**	**Law**	**Type**	**Used term**
Costa Rica	2007	8589	Program/CC	Femicide
Guatemala	2008	Decree 22	Change in the CC	Femicide

[29] Macaulay (2021), Villa (2020) and Xavier (2019) debated this idea within the Brazilian context.

El Salvador	2010	Decree 520	Program/CC	Feminicide
Nicaragua	2012	779	Program/CC	Femicide
Mexico	2012	w/n	Change in the CC	Feminicide
Argentina	2012	26.791	Change in the CC	Women's death
Peru	2013	30.068	Change in the CC	Feminicide
Bolivia	2013	348	Program/CC	Feminicide
Honduras	2013	Decree 23	Change in the CC	Femicide
Panama	2013	82	Program/CC	Femicide
Ecuador	2014	w/n	Change in the CC	Femicide
Venezuela	2014	40.548	Program/CC	Femicide
Dominican Republic	2014	550	Change in the CC	Feminicide
Colombia	2015	1.761	Change in the CC	Feminicide
Brazil	2015	13.104	Change in the CC	Feminicide
Paraguay	2016	5.777	Change in the CC	Feminicide
Uruguay	2017	19.538	Program/CC	Femicide
Chile	2020	21.212	Change in the CC	Femicide

Source: Elaborated by the author.

Therefore, there is not direct association between the use of terms feminicide/femicide and the difference in their meanings elaborated by scholars. Put differently, the legislative output is disconnected from academic research and debates about feminicide and there is no consensus about the State's responsibility. The idea of criminal law as a remedy for gender-based violence and social/political inequalities persists; in addition, there is no unitary viewpoint on the need for general programs and public policies to combat violence as synergical instruments to the changes made in criminal codes. Finally, there is no full coordination between the existing policies and international conventions.

When it comes to the criminological aspects, fourteen of the eighteen countries (77%) have criminalized women murdering as an autonomous crime. With respect to penalty, only Brazil and Uruguay contemplate shorter penalties than the most recurrent minimum sentence in Latin America systems, namely, fifteen years. Penalties often range from fifteen to forty years in prison, except for Mexico (which starts with forty years), Argentina and Chile (which adopted life imprisonment). Most countries adopt aggravating circumstances to increase penalty, regardless of framing or not the murdering of women as an autonomous crime, except for Costa Rica, Paraguay, Uruguay, Argentina and Chile (in case of Argentina and Chile, penalty is life imprisonment, which justifies the non-adoption of aggravating circumstances). It is also possible to observe that fifteen of the eighteen countries (except for Argentina, Uruguay and Chile) connect these legislations to domestic violence, be it by criminalizing the latter, or not; as shown in Chart 2, below.
We can also highlight that, three out of the five countries that have adopted the term "femicide" - Costa Rica, Uruguay and Chile - did not provide for aggravating circumstances to increase the penalty. They also did not highlight any connection to domestic violence (except for Costa Rica). Seven among the nine countries that adopt the term "femicide" have minimum penalties (twenty years or more). Peru, Brazil and Paraguay adopt the term "feminicide" and account for the three shortest minimum penalties. Somehow, based on such an aspect, the term "feminicide" complies with the original term.

Chart 2. Criminological dimensions of feminicide/femicide laws in Latin America

Country	Feminicide typification	Qualifying approach	Aggravating circumstance	Articulation with domestic violence	Penalty (in years)
Costa Rica	Autonomous crime	No	No	Yes	20-35
Guatemala	Autonomous crime	No	Yes	Yes	25-50
El Salvador	Autonomous crime	No	Yes	Yes	20-35
Nicaragua	Autonomous crime	No	Yes	Yes	20-25
Mexico	Autonomous crime	No	Yes	Yes	40-60 + fine
Argentina	No	Subjective qualification of homicide	No	No	Life imprisonment
Peru	Autonomous crime	No	Yes	Yes	15-25
Bolivia	Autonomous crime	No	Yes	Yes	30
Honduras	Autonomous crime	No	Yes	Yes	30-40
Panama	Autonomous crime	No	Yes	Yes	25-30
Ecuador	Autonomous crime	No	Yes	Yes	22-26
Venezuela	Autonomous crime	No	Yes	Yes	20-25
Dominican Republic	No	Subjective qualification of homicide	Yes	Yes	30-40
Colombia	Autonomous crime	No	Yes	Yes	20-41
Brazil	No	Subjective qualification of homicide	Yes	Yes	12-30
Paraguay	Autonomous crime	No	No	Yes	10-30
Uruguay	No	Subjective qualification of homicide	No	No	15-30
Chile	Autonomous crime	No	No	No	Life imprisonment

Source: Elaborated by the author.

With respect to the offender, six countries (Costa Rica and Guatemala, El Salvador, Mexico, Peru and Bolivia) do not clearly define his sex; this information is ambiguous and allows different interpretations. Eight countries (Panama, Ecuador, Venezuela, Dominican Republic, Colombia, Brazil, Paraguay and Uruguay) adopt neutral terms in the language to describe offenders, and it allows broader application of criminal precepts. Among countries that adopt the neutral term or that use ambiguous terms, eight use "feminicide" and six adopt "femicide". At first, it makes sense, because the term "femicide" is clearly associated with death of women caused by men; it regards misogynist action. Only four countries (Nicaragua, Argentina, Honduras and Chile) understand man as the offender – accordingly, three countries adopt the terms "femicide" and "women's death", and it meets the use of the original sense of the criminal emphasis.

With respect to the term "woman", adopted by the legislation, ten countries (Costa Rica, El Salvador, Nicaragua, Peru, Bolivia, Panama, Ecuador, Dominican Republic, Brazil and Uruguay) opt for clearly biological definitions by associating the term "woman" to the "sex" dimension. It precludes the application of protective mechanisms to victims that still being non-biologically-born women can be killed for their gender identification. Eight countries adopt the gender understanding (Guatemala, Mexico, Argentina, Honduras, Venezuela, Colombia, Paraguay and Chile) and it allows putting aside biologically oriented interpretations. Among the countries that adopt the term "feminicide", only three understand gender as a synonym for biological "woman", and the same goes for four of the nine countries that adopt "femicide". Such an understanding allows highlighting that the understanding of the term "woman" follows its biological meaning.

As for the main reason for violence, eleven countries (Guatemala, El Salvador, Mexico, Peru, Honduras, Panama, Venezuela, Colombia, Paraguay, Uruguay and Chile) use the term "condition of being woman" to refer to the main motivational bases, be them in the legal definition of the offence, or in the description of the possible cases in which the offence may occur. Costa Rica has the most restrictive legislation, since it limits feminicide application to marital relationships. Nicaragua and Equator understand "unequal power relationships" as the context of reference for violence against women. Argentina adopts the term "gender violence", the Dominican Republic uses "gender reason" and Brazil applies the term "condition of female sex". Only Bolivia does not adopt a reason for violence against women. Finally, only Costa Rica and Ecuador do not adopt circumstances to define the contexts in which femicide takes place. See Chart 3, below.

Chart 3. Generalized dimensions of feminicide laws in Latin America

Country	Offender	Used term	Meaning to the term woman	Case orientations
Costa Rica	Ambiguous	Femicide	Biological	No
Guatemala	Ambiguous	Femicide	Gender	Yes
El Salvador	Ambiguous	Feminicide	Biological	Yes
Nicaragua	Man	Femicide	Biological	Yes
Mexico	Ambiguous	Feminicide	Gender	Yes
Argentina	Man	Women's death	Gender	Yes
Peru	Ambiguous	Feminicide	Biological	Yes
Bolivia	Ambiguous	Feminicide	Biological	Yes
Honduras	Man	Femicide	Gender	Yes

Panama	Neutral	Femicide	Biological	Yes
Ecuador	Neutral	Femicide	Biological	No
Venezuela	Neutral	Femicide	Gender	Yes
Dominican Republic	Neutral	Feminicide	Biological	Yes
Colombia	Neutral	Feminicide	Gender	Yes
Brazil	Neutral	Feminicide	Biological	Yes
Paraguay	Neutral	Feminicide	Gender	Yes
Uruguay	Neutral	Femicide	Biological	Yes
Chile	Man	Femicide	Gender	Yes

Source: Elaborated by the author.

In taking overall stock of the legislative output in Latin America, one can say that the crime of women murdering based on sex/gender reasons does not necessarily follow the conceptual inputs from the theoretical interpretations developed within academia. This entails that an approach to this phenomenon as a purely criminal category still reigns. However, even within the remits of criminal lawmaking, the use of the terms femicide and feminicide do not correspond to any clear and cohesive criterion, with the paradox - just to make an example - that countries that adopt "femicide" (which would suggest an emphasis on traditional penalties and purely criminal law approach) do not have significant penalties, sometimes not even life imprisonment. Elena Hernández (2015, p. 65) advocates "the idea that oppressed individuals have the right to dislocate from these definitions of crime, which have been manipulated to serve the oppressors' interests"[30]. This allows us to state that penalties in Latin America often range from 15 to 40 years, as well as that the use of the term "femicide" in these countries is confined to a criminal law dimension. This is a crucial matter, since it shows that the legislative production does not follow the scholarly debate, which can help creating the very bases for the best understanding of the phenomenon.

The women's murdering issue is mainly tackled through criminal code modifications, because the perception about death of women due to sex/gender reasons is new in Latin America. Accordingly, most countries criminalize it after the implementation of feminicide/femicide as autonomous crime, because it evidences the disapproval of this crime and the urgency of having actions taken by the State to punish crimes against life. Nevertheless, most countries adopt aggravating circumstances that increase penalties, as well as connect their legislations to domestic violence. One third of the assessed countries has changed their Criminal Codes to create programs applied to fight violence against women. Therefore, this is a complicated process, according to which, women's murdering is understood based on the punishing bias, regardless of measures influencing the social structure; moreover, it changes views of the world and behaviors.

The term "woman" still receives significant application in its biological meaning, regardless of the possibility of other interpretations. In total, five out of the ten countries that address woman in a purely biological sense, use the term "feminicide"; the other five countries use "femicide". Four of the eight countries that refer to women as gender, use "femicide", three use "feminicide" and one uses "death of women". In addition, among those countries that address women as a synonym for

[30] "la idea de que las personas oprimidas tienen el derecho a desvincularse de aquellas definiciones de los crímenes que han sido desarrollados por sus opresores para servir a sus propios intereses".

female biological sex, five have neutral-sex conception of the aggressor, while four use ambiguous language, and one defines the aggressor explicitly as a "man". Dwelling on the latter aspect, most Latin American countries are ambiguous or adopt neutral terms to refer to the offender. Only a minority of countries limit the offender's category to biological man – assumingly, there is broader use of woman as sex category to impute victimization (murder of women based on their sex), whereas the biological concept of "man" is less generalized as the aggressor category. This means that pursuant to several Latin American legal systems also women might commit feminicide.
However, these observations show that biological terms still prevail in defining the scope of the potential victims and the punishable aggressors. Besides, no clear criteria govern the use of "feminicide" or "femicide" in legal texts, assumingly because of the confusion, or a lack of deeper understanding, about their semantic trajectory in the lawmaking context. Vásquez (2012, 425) criticizes the idea of neutral juridical standards in feminicide's legal construction since the focus on criminal response disrupts the perspective of the political background behind this criminal category.
Once again, there is a long distance between lawmakers and academic research about this topic, especially if one tries to get away from the biological concepts and wants to interpret the expression "to be a woman" according to a plural dimension.

This reflection opens the way to two interpretations, each of them entailing different consequences. The first interpretation recognizes that violence against women can be practice by other women, who are capable of embodying male chauvinist elements observed in the historical, social and political context of a given society; thus, it regards general responsibility. When it comes to the second interpretation, when one limits the offender to the male sex, the system pre-assumes that most crimes of women's murdering are committed by men. Moreover, while the first stance also reinforces women responsibility as likely offender of other women, the second holds a discriminating element, as it reduces women to an entity incapable of murdering.
Finally, most countries in Latin America that criminalized femicide/feminicide have laws about domestic violence; a few have integral laws to protect and promote dignity. However, as United Nations Office for Gender Equality (UNITED NATIONS, 2019, p. 56) ratifies, and as we have identified in the present study, most countries "have not enacted comprehensive legislation about responses to this problem within their criminal justice system". This perspective promotes what Vásquez (2012, 381-420) understands as an ideal of punishment based on high penalties associated with emphasis on fighting impunity.

Final Considerations

The general scenario in Latin American countries about their legislative production indicates that the use of terms femicide/feminicide has no clear and cohesive criterion, although women's murdering is fought through amendments to criminal codes, without necessarily implementing general programs and mainstream laws addressing violence against women through different measures. Therefore, most countries criminalize the action of violence against women by defining the crime of feminicide/femicide as an autonomous offence.
Category "woman" is ambiguous; on the one hand, it covers the biological dimension linked to concepts of femicide/feminicide used to refer to victims; however, it keeps a "neutral" dimension when it comes to aggressors. This problematic perspective brings along a political notion that

changes the perspective of how the murdering of a woman is sex/gender based and is a facet of social and political relationships. In addition, the lack of deeper social and political perception in the interpretation of this crime emerges in the way the terms femicide/feminicide are used and in how these terms are connected (or not) to domestic violence and to the State's accountability for ensuring reparations to victims.

The disconnection between the use of terms feminicide and femicide also evidences the distance between scholars thoroughly researching this topic and lawmakers. Moreover, it has been noticed how some countries formally use one term in their legal texts while applying, in practice, elements borrowed from the other one. This does not mean that lawmakers do need to follow acritically a theoretical elaboration and automatically translate its concepts into legal categories. However, the point here is the lack of minimum common standards across nations that provide for femicide/ feminicide.

Furthermore, the creation of specific criminal offenses disconnected from the regulation of other forms of violence, as well as the lack of coordination with other mainstream programs against gender-based violence, cannot ensure a successful addressing of the dynamics of women's murdering. Finally, when it comes to the offender's characterization, there is a barrier still to be overcome, as most legislations opt for limiting the definition to an offender biologically belonging to the male sex.

In conclusion, a crucial challenge in the Latin American context lies in drafting a legislation more sensitive to gendered perspectives in the regulation of the killing of women. This does not mean that all countries in the Latin American region must have the same provisions. However, it is necessary using the terms as common starting points and analytical instruments, especially in areas where the level of this crime has been constantly rising since it was formally typified and criminal occurrences turned into official statistics. There is a collective project in the region to influence the social structure, change behaviors and create a culture that favors life and that does not accept women murdered just because of being women.

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