Cartographies of Survival:

Disputing Democracy, Reimagining Community

Learning with Women in Grassroots Movements

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Tag der mündlichen Prüfung: 17.6.2020

Abstract

To survive. This is the main battleground of peripheric bodies (body-territory), particularly indigenous, black, poor and trans* women. By adopting a transdisciplinary and mixed methodology, this research conducts decolonial excavations, traces genealogies of discourse, and pays attention to the oral histories of women (body-archive) engaged in grassroots movements in Brazil. Bearing on that, the dissertation proposes a decolonial and feminist epistemology for confronting the *epistemicide* of the knowledges produced by women from Latin America. Initially, the work frames the interplay of law and violence through the category of feminicide. In this territoriality, the edges of the legal mainstream approach to violence are identified with the term, "*front door of violence*", that the research firstly delineates, and then purposes to pass through it. In this way, the work moves from the surface of the debate on violence to excavate the undergrounds of modernity. The mapped genealogies situate the notion of "*othering*" as a mechanism of political extermination of Others, a process that has shaped and been shaped by legal discourse. By blurring the binary divisions of modernity, this dissertation traces the joints that articulate body to territory; private to public; reproduction to production; micropolitics to macropolitics; family to nation; difference to equality. By exposing the formation of constitutional democracy, the analysis finally faces the current crisis of the neocolonial structures of society. Instead of adopting the paralyzing grammar of apocalypse or backlash, the work frames the crisis as a potential *locus* for political disputes and for conceptual redefinitions. In this way, the study brings to the center five major disputes carried out by peripheric women concerning the issues of: politics of rights, (neo)colonial division of labor, feminicide, the legal system, and institutional politics. The movements of speaking, naming, working, organizing, defining, occupying, representing are embodied by this work as cartographies of survival.

Keywords

Critical Legal Studies; Feminicide/Femicide; Body-Territory; Colonialism; Women; Violence; Grassroots Movements; Nation State; Democracy; Brazil.

to all peripheric bodies,

to every survivor,

Acknowledgements

Summary

chapter three
Disputing Democracy, Reimagining Community:
Moving *from Below* and *from Within*

Here is a map of our country:

here is the Sea of Indifference, glazed with salt
This is the haunted river flowing from brow to groin
we dare not taste its water
This is the desert where missiles are planted like corms
This is the breadbasket of foreclosed farms
This is the birthplace of the rockabilly boy
This is the cemetery of the poor
who died for democracy   This is a battlefield
from a nineteenth-century war   the shrine is famous
This is the sea-town of myth and story   when the fishing fleets
went bankrupt   here is where the jobs were   on the pier
processing frozen fishsticks   hourly wages and no shares
These are other battlefields   Centralia   Detroit
here are the forests primeval   the copper   the silver lodes
These are the suburbs of acquiescence   silence rising fume-
like
          from the streets
This is the capital of money and dolor whose spires
flare up through air inversions whose bridges are crumbling
whose children are drifting blind alleys pent
between coiled rolls of razor wire
I promised to show you a map you say but this is a mural
then yes let it be   these are small distinctions
where do we see it from is the question

<div align="right">Adrienne Rich[i]</div>

Introduction

This dissertation is an embodiment of movements; an articulation of the movements of surviving, articulating, questioning, excavating, disrupting and transforming; a combination of movements *from below* and *from within*; a composition of rhythms and sounds from the speakable to the unspeakable, from the noisy to the silent. Movement as the process of forming a body and of disputing a territory, from the margin to the center, from below and from within. The *corpus* of this thesis is the materialization of collective processes of knowledge, experiences, memories, discourses, voices and strategies. It is not a stable picture but a moving process.

By tracing cartographies of survival, this work seeks to interrogate the relationship between law and violence, and to situate the lines of perseverance and counterinsurgency. How does the legal discourse present itself as the ossification of the social structures and, at the same time, the legitimate tool to transform the same structures? What is the articulation, historically and conceptually, between masculinity, whiteness, democracy and law? What are the "on-the-ground" strategies to survive and transform the neocolonial structures of violence?

These questions permeate the soil in which this research is grounded. Regarding its geopolitical territorially, Latin America is perceived as the most interesting region for excavating the outlined inquiries, since it is the place where the modern form of colonialism was initiated, where the modern nation state politically emerged, and where neoliberalism was first materially implemented.

More specifically, this dissertation focuses on Brazil for its particular thought-provoking context involving identity, violence and democracy. Regarding its colonial history, the country had the largest and longest Black Atlantic slavery regime in the world;

forcedly brought approximately four million African people from numerous sites, ethnicities and cultures, which is an amount approximately ten times higher than the amount of slaves brought to the United States; had a multiplicity of indigenous communities in its continental borders of more than eight million square kilometers; and represented the only case in the world history in which to the capital of an Empire (Portugal) was based inside the terrains of the colony (Rio de Janeiro), which resulted on a large circulation of foreign visitors and diplomats.[1] On top of that, regarding its current context, Brazil is considered the world's most deadly place to live for lesbians, gays, bisexuals and transgender people, and has the fifth highest rate of femicide in the world.[2] Thus, the analysis is certainly not limited to the past but incorporates the articulation of several temporalities that comes together in the making of *our* contemporary democracy and nation state.

"Our" because this work does not speak only about Brazil. Neither is it restricted to thinking about Latin America. The movement intended here is to reflect on the relationality, interconnection and interdependence in the formation of the particular for the very constitution of the 'global'; in the creation of the colony for the constitution of the Empire; in the affirmation of the One for the denial of the Other. By disrupting such a binary way of thinking, I deliberately used the polemic 'our' not to claim a 'we', but to unearth the relationality of these fragments, that is, the transnational dimension in the formation of modernity.

Currently, the world faces a concomitant collapse of the existing economic, environmental, political and labor dimensions of neoliberal nation. Instead of framing the crisis in terms of paralysis, fatigue, backlash or apocalypse, this dissertation addresses it as a privileged *locus* for re-defining concepts and invigorating resistances; as the very trembling of the earth upon which the neocolonial structures have been based and the nations built.

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[1] At the end of 1821 and beginning of 1822, the Royal family decided to return to Portugal and the emperor Dom João left his son, Dom Pedro, to govern the colony within the status of "Principe Regent". Cf. Lilia Moritz Schwarcz, 'A Mestizo and Tropical Country: The Creation of the Official Image of Independent Brazil', *Revista Europea de Estudios Latinoamericanos y del Caribe,* 80 (2006), 25-42. Lilia Moritz Schwarcz, 'As Marcas do Período', in Lilia Moritz Schwarcz (ed.), *História Do Brasil Nação: 1808-2010* (3, A Abertura para o mundo: 1889-1930; Rio de Janeiro and Madrid: Objetiva and MAPFRE, 2012c). Lamonte Aidoo, *Slavery Unseen. Sex, Power, and Violence in Brazilian History* (Durham and London: Duke University Press, 2018) at 13. Sidney Chalhoub, *A Força Da Escravidãõ – Ilegalidade E Costume No Brasil Oitocentista* (São Paulo: Companhia das Letras, 2012) at 35. Luiz Felipe Alencastro, *O Trato Dos Viventes – Formação Do Brasil No Atlântico Sul* (São Paulo: Companhia das Letras, 2000) at 69.

[2] See Laurent, Platzer, and Idomir, 'Femicide: A Global Issue That Demands Action', Flacso, 'Mapa Da Violência 2015. Homicídio De Mulheres No Brasil', (1 edn.; Brasília, DF, 2015).

Before situating the mapping of this dissertation's territoriality, the introduction outlines three conceptual keys that permeate its lines: body, territory and articulation.

Body

The notion of body is commonly referring to its physicality involving skins, bones, flesh, muscles, and a multiplicity of physiological and anatomical functions. However, this work addresses the body in a broader and relational dimension, by framing it as a process of embodiment permeated and constituted by and through power relations, historical context, positionality, that both defines and is shaped by it.

Hence, besides the physical aspects of the individualized corporality, the notion of "body" has become a recurrent debate not only in philosophical circles, but also within the feminist and decolonial theories.[3] In this way, the concern "with revaluing the body, and undermining such mind/body dualism, has led to an acknowledgement that bodies are not simply given (as 'nature'), that bodies are differentiated and that subjectivity and identity cannot be separated from specific forms of embodiment".[4]

In this respect, the use of the term "body" to refer a person is not here understood as a form of dehumanizing people, as if they were 'only a body', nor to reinforce the divide between mind and body. Differently, "body" is conceptualized in a broader dimension, encompassing the interplay of power, memory, violence and resistance in the "doing" and "being done to" of ontologies and societies. By ranging from archives of knowledge to territories of struggle, "body" will be analyzed as both "archive" and "territory".

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[3] See Michel Foucault, *Em Defesa Da Sociedade. Curso No Collège De France (1975-1976)*, trans. Maria Ermantina De Almeida Prado Galvão (2nd edn.; São Paulo: Martins Fontes, [1975-1976] 2010), Michel Foucault, 'DiáLogo Sobre O Poder', *Ditos E Escritos* (2nd edn., IV. Estratégia, Poder-Saber; Rio de Janeiro: Forense Universitária, [1978] 2006), Michel Foucault, 'Truth, Power, Self: An Interview with Michel Foucault', in Luther H. Martin, Patrick H. Hutton, and Huck Gutman (eds.), *Technologies of the Self: A Seminar with Michel Foucault* (London: Tavistock, [1982] 1988), Michel Foucault, 'Afterword: The Subject and Power', in Paul Rabinow and Hubert L. Dreyfus (eds.), *Michel Foucault, Beyond Structuralism and Hermeneutics* (2nd edn.; Chicago: The University of Chicago, 1983), Frantz Fanon, *Peau Noire, Masques Blancs* (Paris: Les Éditions du Seuil, 1952), Frantz Fanon, *The Wretched of the Earth*, trans. Richard Philcox (2004 edn.; New York: Grove Press, 1961), Judith Butler, *Bodies That Matter. On the Discursive Limits of "Sex"* (New York and London: Ruotledge, 1993), Judith Butler, 'Foucaultian Subject', *Giving an Account of Oneself* (Bronx, New York: Fordham University Press, 2005), Judith Butler, *Undoing Gender* (New York: Routledge, 2004), Ato Sekyi-Otu, *Fanon's Dialectic of Experience* (Cambridge, US: Harvard University Press, 1996), Walter Mignolo, 'Foreword: Decolonial Body-Geo-Politics at Large', in Sandeep Bakshi, Suhraiya Jivraj, and Silvia Posocco (eds.), *Decolonizing Sexuality* (Oxford, UK: Counterpress, 2016).

[4] Sarah Ahmed and Jackie Stacey, 'Introduction: Dermographies', in Sarah Ahmed and Jackie Stacey (eds.), *Thinking through the Skin* (Transformations: Thinking through Feminism; London and New York: Routledge, 2001) at 3.

Body-Archive

"Body-Archive" refers to the interrelation of material conditions for our existence in terms of space, identity and power, delineated "by lights and sound".[5] In this direction, "the skin and the flesh expose us to the gaze of others but also to touch and to violence. The body can be the agency and instrument of all these as well, or the site where 'doing' and 'being done to' become equivocal", as articulated by Judith Butler.[6]

Similar to the notions of archive and register, the chicanas, Cherrie Moraga and Gloria Anzaldua, delve into the notion of "theory in the flesh" to define the body as a source of knowledge. They conceptualize the theory in terms of "the physical realities of our lives – our skin color, the land or concrete we grew up on, our sexual longings – all fuse to create a politic born out of necessity."[7]

Accordingly, "flesh" refers to the embodied experiences of marginalized women, experiences that shape their corporeal flesh, narratives and ways of being. "Bodies" are regarded as archives to materially reflect on forms of healing colonial wounds.[8] The materiality of the theory lives "in the flesh" of women's lives, as is described by Moraga's words:

> the exhaustion we feel in our bones at the end of the day, the fire we feel in our hearts when we are insulted, the knife we feel in our backs when we are betrayed, the nausea we feel in our bellies when we are afraid, even the hunger we feel between our hips when we long to be touched.[9]

Regarding the notions of body and flesh, Hortense Spillers proposes a decolonial differentiation of them. According to the author, "before the 'body' there is the 'flesh'," understood as the "primary narrative", the "zero degree of social conceptualization", the very split "between captive and liberated subject-positions".[10] Bearing on that, "flesh" could be comprehended as the 'captive-body', reduced to one of its elements, reduced to the flesh. As embodied in Elza Soares' words, *a carne mais barata do mercado; é a carne negra* ("the cheapest meat at the market; is the black flesh").

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[5] Ibid.

[6] Judith Butler, *Undoing Gender* (New York: Routledge, 2004).

[7] Cherrie Moraga and Gloria Anzaldúa, 'Entering the Lives of Others. Theory in the Flesh', in Cherrie Moraga and Gloria Anzaldúa (eds.), *This Bridge Called My Back. Writings by Radical Women of Color* (2002 edn.; Berkely: Third Woman Press, 1981) at 21.

[8] Ibid.

[9] Cherrie Moraga, 'Preface, 1981', ibid. at l.

[10] Hortense J. Spillers, 'Mama's Baby, Papa's Maybe: An American Grammar Book', *Diacritics, Culture and Countermemory: The "American" Connection. The Johns Hopkins University Press,* 17/2 (1987), 64-81 at 67.

Similarly, the Brazilian scholar Beatriz Nascimento defines "body" as the main register of the Transatlantic crossings. "Body is memory", states the author when coining the notion of *corpo/mapa* (body/map).[11] Memory of violence. Memory of survival. In her poetic words:

> *Entre luzes e som, só encontro, meu corpo, a ti. Velho companheiro das ilusões de caçar a fera. Corpo de repente aprisionado pelo destino dos homens de fora. Corpo/mapa de um país longínquo que busca outras fronteiras, que limitam a conquista de mim. Quilombo mítico que me faça conteúdo da sombra das palavras. Contornos irrecuperáveis que minhas mãos tentam alcançar.[12]*

> Between lights and sound, I only find, my body, you. Old companion to the illusions of hunting the beast. Body suddenly imprisoned by the fate of outside men. Body/map of a distant country that seeks other frontiers, that limits the conquest of myself. Mythical quilombo that makes me the content of the shadow of words. Unrecoverable contours that my hands try to reach. [my translation]

Drawing on these lines, body is comprehended as the very materialization of the geopolitical relations of power, knowledge and subjectivity; as a body-map; as a body-archive.

Body-Territory

Colonial conquest and domination occupied not only territories but also invaded bodies. The interplay between territory and body, the female body particularly, has been emphasized by communitarian, black and indigenous feminists. They conceptualize the articulations between body and territory as spaces of dispossession, ownership, commodification, poisoning, and exploitation.[13] Body "is a private and unique space, the

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[11] Alex Ratts, *Eu Sou Atlântica: Sobre a Trajetória De Vida De Beatriz Nascimento*, ed. Alex Ratts (São Paulo: Imprensa Oficial do Estado de São Paulo; Instituto Kuanza, 2007) at 68.

[12] Ibid.

[13] Cf. Lorena Cabnal, 'Acercamiento a La Construcción Del Pensamiento Epistémico De Las Mujeres Indígenas Feministas Comunitarias De Abya Yala', in Acsur-Las Segovias (ed.), *Feminismos Diversos: El Feminismo Comunitario* (Madrid: ACSUR-Las Segovias, 2010) at 22. Julieta Paredes, 'Despatriarcalización - Una Respuesta Categórica Del Feminismo Comunitario (Descolonizando La Vida)', *Bolivian Studies Journal/Revista de Estudios Bolivianos,* 21 (2015), 100-15 at 106. Rita Segato, 'Femigenocidio Como Crimen En El Fuero Internacional De Los Derechos Humanos', *La Guerra Contra Las Mujeres* (Madrid: Traficantes de Sueños, 2016a) at 138. Graciela Alonso and Raúl Díaz, 'Cuerpo y Territorio Desde Lo Alto De Una Torre: Visibilidad, Protagonismo Y Resistencia De Mujeres Mapuce Contra El Extractivismo', in Mariana Gómez and Silvana Sciortino (eds.), *Mujeres Indígenas y Formas De Hacer Política. Un Intercambio De Experiencias Situadas Entre Brasil Y Argentina* (Temperley: Tren en Movimiento, 2018) at 41, 45, Rita Segato, *La Guerra Contra Las Mujeres* (Madrid: Traficantes de Sueños, 2016c), Rita Segato, 'Patriarchy from Margin to Center: Discipline, Territoriality, and Cruelty in the Apocalyptic Phase of Capital', *South Atlantic Quarterly, Duke University Press,* /115:3 (2016b), 615-24. Rosalva Aída Hernández Castillo, 'Cuerpos Femeninos, Violencia y Acumulación por Desposesión', in Marisa Belausteguigoitia Rius and María Josefina Saldaña-Portillo (eds.), *Des/Posesión: Género, Territorio Y Luchas Por La Autodeterminación* (México: Universidad Nacional Autónoma de México, 2015) at 80.

first space that we can make our own in order to take ownership of other territories: the house, the neighborhood, the city, the country."[14]

Moreover, reading the body implies much more than an individual shape but also refers to the collective dimension of organizations, organs, associations, systems and articulations. The "social body" is understood as society, the people, the formation of a national community. In this respect, the cartographies of margin and periphery permeate this dissertation by connecting the spatial architecture of body-territory.

In *Feminist Theory: From Margin to Center* (1984), bell hooks demonstrates how the notion of margin and center configures, both physically and metaphorically, her own experience of being a black woman. In her words:

> To be in the margin is to be part of the whole but outside the main body. As black Americans living in a small Kentucky town, the railroad tracks were a daily reminder of our marginality. Across those tracks were paved streets, stores we could not enter, restaurants we could not eat in, and people we could not look directly in the face. Across those tracks was a world we could work in as maids, as janitors, as prostitutes, as long as it was in a service capacity. We could enter that world but we could not live there. We had always to return to the margin, to cross the tracks, to shacks and abandoned houses on the edge of town. [15]

Along the same lines, the chicana feminist Gloria Anzaldua introduces the terminology of borderlines and frontiers to address the marginalization she faced as being a lesbian woman regarding the physical, psychological, sexual, and racial borders of Mexico-U.S. In this way, Anzaldua also addresses these terms from both physical and metaphoric perspectives:

> To live in the borderlands means you
> Are neither *hispana india negra española*
> *Ni gabacha, eres mestiza, mulata*, half-breed
> Caught in the crossfire between camps,
> while carrying all five races on your back
> Not know which side to turn to, run from; [...]
> In the Borderlands
> You are the battleground
> Where enemies are kin to each other;
> You are at home, a stranger
> the border disputes have been settled
> the volley of shots have shattered the truce
> you are wounded, lost in action
> dead, fighting back;[16]

[14] Ana Falú, 'Violence and Discrimination in Cities', in Ana Falú (ed.), *Women in the City: On Violence and Rights* (Santiago de Chile: Women and habitat network of Latin America/ Ediciones SUR, 2010) at 29.

[15] Hooks, *Feminist Theory - from Margin to Center* at (preface, ix).

[16] Gloria Anzaldúa, *Borderlands / La Frontera - the New Mestiza* (San Francisco, CA: Aunt Lute Books, 1987) at 194-5.

Therefore, "body-territory" comprehends not only the body as a battlefield where violence is inflicted but also encompasses the space where power is asserted and resistance fostered. The micro and macro formations of the body are necessarily entangled and will be materially analyzed along this dissertation.

Territory

The geopolitics of mapping and cartographies have been drawing a Eurocentric globe that is divided into several binaries: 'underdeveloped' and 'developed', 'Third World' and 'First World', 'Global South' and 'Global North'. This work problematizes these categories in at least three major assertions: i) the colonial linear timeframe of the world directed towards a Western definition of progress; ii) the ideal of development and growth; and iii) the distortion of the existing marginalization and privilege in both geopolitical spaces.[17]

Chandra Mohanty defines "Third World" as both a geographical location and as a sociohistorical conjuncture. That is to say, for Mohanty, the concept would also incorporate the so-called minority people or people of color in the 'Global North', for instance. The author acknowledges the terminology as "inadequate in comprehensively characterizing the economic, political, racial, and cultural differences within the borders of Third World nations." Nevertheless, she still considers it as the better option in comparison with 'North/South' and 'advanced/underdeveloped' nations, since it brings "the inheritance of colonialism and contemporary neocolonial economic and geopolitical processes that the other formulations lack".[18]

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[17] Cf. Sundhya Pahuja, *Decolonising International Law: Development, Economic Growth and the Politics of Universality*, ed. Cambridge Studies in International and Comparative Law (Cambridge: Cambridge University Press, 2011b), Antony Anghie, *Imperialism, Sovereignty and the Making of International Law* (Cambridge Studies in International and Comparative Law; New York: Cambridge, 2004). Edward W. Said, *Orientalism* (26, 2003 edn.; London: Penguin, 1978), Peter Fitzpatrick, 'The Revolutionary Past: Decolonizing Law and Human Rights', *Metodo. International Studies in Phenomenology and Philosophy* 2/1 (2014), 117-33, Andrea Bianchi, *International Law Theories - an Inquiry into Different Ways of Thinking* (2 edn.; Oxford and New York: Oxford University Press, 2016) at 205-8, José-Manuel Barreto, 'Epistemologies of the South and Human Rights: Santos and the Quest for Global and Cognitive Justice', *Indiana Journal of Global Legal Studies* 21 (2014). Boaventura De Sousa Santos, *Epistemologies of the South. Justice against Epistemicide* (2016 edn.; London and New York: Routledge, 2014). Catalina María Tabares Ochoa, 'Teorías Críticas Feministas: Transgresoras, Creativas. Una Contribuición a Los Desafíos de la Teoría Social en América Latina', *NORUS,* 7/11 (Jan/Jul 2019) at 96. Chandra Talpade Mohanty, 'Under Western Eyes: Feminist Scholarship and Colonial Discourses', *Boundary 2, On Humanism and the University I: The Discourse of Humanism,* 12/3 (1984), 333-58.

[18] Cf. Chandra Talpade Mohanty, *Feminism without Borders. Decolonizing Theory: Practicing Solidarity* (Durham and London: Duke University Press, 2003) at 44, 143-4.

In this respect, this dissertation adopts, with a critical eye, the outlined notions ('Third World/First World'; 'Global South/Global North') and excavates the material construction of the developmental discourse. Moreover, 'Latin America' is here comprehended in its broader sense, that includes the Caribbean, Central America, and South America.

To propose a new cartography of knowledge, this analysis invokes an "earthy" grammar, instead of a "liquid" vocabulary of waves commonly used by classic feminist studies. Ocean here is connected to the Black Atlantic,[19] terminology coined by Paul Gilroy in reference to the Transatlantic slavery regime.[20] Differently, "earth" refers to everyday life, to the ancestral resistance carried out by Afro-diasporic and indigenous bodies, to the physical space of the "*quilombo*",[21] of the home, of the community.

Hence, what follows is a mapping of the "earthy" grammar proposed by this dissertation, traced in their branches, entanglements, rhizomes and meanings.

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[19] On "Black Atlantic", see Paul Gilroy, *O Atlântico Negro: Modernidade E Dupla Consciência*, trans. Cid Knipel Moreira (2nd edn.; São Paulo: Editora 34, 2012).

[20] This research acknowledges that philosophical works on schizoanalysis had previously conceptualized in a similar botanic grammar of territoriality in terms of "rhizome", "territoriality", "reterritorialization", and "deterritorialization. See Suely Rolnik and Félix Guattari, Molecular Revolution in Brazil, trans. Karel Clapshow and Brian Holmes (Foreign Agents; Los Angeles: Semiotext(e), [1986] 2006) at 469; 71-2. Gilles Deleuze and FéLix Guattari, *L'anti-Oedipe, Capitalisme Et SchizophréNie* (Paris: Editions de Minuit, 1972).

[21] This notion will be further addressed in this work, especially in the chapter zero and three. More, see Beatriz Nascimento, 'O Conceito De Quilombo E a ResistéNcia Cultural Negra', in Alex Ratts (ed.), *Eu Sou Atlântica: Sobre a Trajetória De Vida De Beatriz Nascimento* (2007 edn.; São Paulo: Imprensa Oficial do Estado de São Paulo; Instituto Kuanza, 1985), Abdias Do Nascimento, *O Quilombismo. Documentos De Uma Militância Pan-Africanista* (Petrópolis: Vozes, 1980).

Earth, **humanity**, world, soil,

field, land, terrain, **state**, region,

cartography, map, draw, line, trace, **intersection**, space, **territory**,

plantation, **grass**, plant, **seed**, fertilize, foster, germinate, compost, sprout,

ground, excavate, **below**, bottom, underground,

rhizome, **root**, **ancestrality**, **inherited**,

family, **home**, **domestic**,

internal, **local**, **nation**,

institution, **shelter**, **property**, things,

belonging, **possession**, **dependency**,

dominion, **capital**, **structure**, **system**,

regulation, **constitution**, **law**, legislation, measure, **advocacy**,

speak, communicate, express, voice, **articulate**,

divide into joints, **mechanism**, machinery, **work**, motion,

change, **transform**, reshape, redesign, move,

movement, political group, **party**, wing,

progress, growth, **development**, center,

periphery, marginal, **margins**, minor, lesser,

remain alive, sustain oneself, keep body and soul together, persist, persevere, **survive**.

Articulating Bodies

The terminology of "intersectionality" coined by the legal scholar Kimberlé Crenshaw (1989) has been popularized in academic debates and activism.[22] Crenshaw conceptualized intersectionality as a metaphor of a car accident at the intersection of roads for understanding how racism and sexism should not be perceived as mutually exclusive categories of analysis, which was the dominant position in anti-discrimination law previously.[23] In a more specific way, the notion highlights the way that the identity of a black woman embodies the multi-dimensionality of experiencing both racism and sexism, which should neither be dismissed by feminists (centered on white women) nor by black movements (centered on black men), nor by the court and legal doctrine. After the initial definition presented at the paper *Demarginalizing the Intersection of Race and Sex* (1991), the author extended the spectrum of intersectionality to include additional forms of burden and inequality besides the racial and gender ones.[24]

As a way of *moving below* the established canons of knowledge, this work identifies similar concepts adopted by several feminists to address the same issue. "Simultaneous oppression" coined by the Combahee Collective and used by Chandra Mohanty,[25] "inseparability of the fights" and "convergence" by Angela Davis,[26] "articulation" by Lélia

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[22] In this regard, I highlight the use of the "intersectionality" by academia and black feminist movements in Brazil. Indeed, the concept received a volume at the book series' edition on "Plural feminisms" in Brazil. However, I disagree with some statements and interpretations made by Akotirene on the issue. Cf. Carla Akotirene, *O Que É Interseccionalidade?*, ed. Djamila Ribeiro (Feminismos Plurais; Belo Horizonte: Letramento. Justificando, 2018).

[23] Kimberle Crenshaw, 'Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics', *University of Chicago Legal Forum,* /1 (1989), 139-67 at 149.

[24] More, see Kimberlé Crenshaw, 'Mapping the Margins: Intersectionality, Identity Politics, and Violence against Women of Color', *Stanford Law Review,* 43/6 (1991a), 1241-99.

[25] Combahee River Collective, 'The Combahee River Collective's Statement', (Boston, 1977), Chandra Talpade Mohanty, *Feminism without Borders. Decolonizing Theory: Practicing Solidarity* (Durham and London: Duke University Press, 2003).

[26] Angela Davis, *Women, Race and Class* (New York: Random House, 1983) at 42, 83.

Gonzalez,[27] "borderline" and "crossroad" by Gloria Anzaldúa,[28] "matrix of domination" by Patricia Hill Collins,[29] "*fusión*" by María Lugones as well as several others. [30]

In this respect, I adopt the term "articulation" from the work of the Brazilian black feminist Lélia Gonzalez. Gonzalez explicitly recognizes the inseparability of racism and sexism, and therefore class, within its historical connection grounded on colonialism and the emergence of capitalism.[31]

Drawing on the notion, "articulation", I consider the word particularly interesting for embodying at the same time three crucial points of this analysis. Firstly, it refers to the physical connection ("joint") of the pieces of the body together, bringing the analytically fragmented pieces of the skin, bones, flesh, organs and systems in the form of an entire full body of existence. Secondly, it also alludes to the social notion of "joining" through which an individual body is connected to a larger social body, in the sense of articulating bodies together in collective actions and movements. Last but certainly not least, the same word invokes the discourse, the act of communication, the action of voicing, speaking, expressing ideas and articulating thoughts; "the articulation of vowels and consonants" in the formation of clear and distinct sounds in speech.[32]

Regarding the three outlined dimensions of articulation and performing a systematic reading of Gonzalez's works, it is possible to outline three major domains of articulation: i) the ontological body in terms of race, gender, sex and class; ii) the mechanism of othering that refers to systems of marginalization translated as racism, sexism, classicism; iii) the collective organization of bodies in the form of both political

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[27] Lélia Gonzalez, 'Racismo e Sexismo Na Cultura Brasileira', *Revista Ciências Sociais Hoje, ANPOCS,* (1984), 223-44 at 224.

[28] Gloria Anzaldúa, *Borderlands / La Frontera - the New Mestiza* (San Francisco, CA: Aunt Lute Books, 1987).

[29] Patricia Hill Collins, *Black Feminist Thought: Knowledge, Consciousness, and the Politics of Empowerment* (2000 edn.; New York: Routledge, 1990).

[30] María Lugones, 'Toward a Decolonial Feminism', *Hypatia,* 25/4 (2010). Davis, *Women, Race and Class,* Gonzalez, 'Racismo e Sexismo na Cultura Brasileira', Audre Lorde, 'Age, Race, Class, and Sex: Women Redefining Difference', *Sister Outsider: Essays and Speeches,* (1984), 114-23, Bell Hooks, 'Feminism: A Movement to End Sexist Oppression', *Feminist Theory - from Margin to Center* (Boston: South End Press, 1984), 17-31, Chandra Talpade Mohanty, 'Under Western Eyes: Feminist Scholarship and Colonial Discourses', *Boundary 2, On Humanism and the University I: The Discourse of Humanism,* 12/3 (1984), 333-58, Anzaldúa, *Borderlands / La Frontera - the New Mestiza,* Kimberlé Crenshaw, 'Mapping the Margins: Intersectionality, Identity Politics, and Violence against Women of Color.', *Stanford Law Review,* 43/1241 (1991b), Jurema Werneck, 'De Ialodês e Feministas - Reflexões Sobre a Ação Política das Mulheres Negras na América Latina e Caribe', *Nouvelles Questions Féministes - Revue Internationale Francophone,* 24/2 (2005).

[31] Gonzalez, 'Racismo e Sexismo na Cultura Brasileira', at 224.

[32] For more information, see the definition of 'Articulation', in Angus Stevenson and Christine A. Lindberg (eds.), *Oxford Dictionary of English* (Second Edition edn.; Online version Apple Inc 2.3.0 (203.16.12): Oxford University Press 2018), Dictionary, 'Articulation', in Angus Stevenson and Christine A. Lindberg (eds.), *New Oxford American Dictionary* (Online version Apple Inc 2.3.0 (203.16.12): Oxford University Press, 2010).

institutions and social movements.[33] This dissertation excavates and examines these three domains of articulation.

The Map of the Dissertation

Ideally, this dissertation should be offering many different routes, directions, and sequences for the reader to travel through it. However, recognizing the creative limitations imposed by the productivist-time and the academic expectations, my ideal *Cortázarian* plan[34] became a more ossified body. Nevertheless, this research does not move in a linear frame. Instead of drawing a line that connects our past to the progressive future, it tries to embody the complex interplay of past-present-future in the production and reproduction of non-linear temporalities.[35]

The analysis is divided into four chapters, preceded by this introduction and methodological and epistemological considerations and completed by ~~final~~ considerations.

The **chapter ~~minus~~ one** initiates the analysis by excavating the structures of violence from below their most evident public and urban manifestations as crimes perpetrated by men against men (robbery, police violence, drug traffic, war). That is to say, the examination gives visibility to the violence committed against women which has been so often hidden behind the doors of the home. The goal of the chapter ~~minus~~ one is to demonstrate the limitations of traditional legal analysis and the necessity to *move below* it.

By adopting another frame, the **chapter zero** refers to the previously mentioned "zero degree of social conceptualization", that is, the split "between captive and liberated subject-positions".[36] The chapter delves into the very formation of modern subjectivity and economic structures. It examines the first and second domains of articulation: the

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[33] Flavia Rios and Alex Ratts, 'A Perspectiva Interseccional De Lélia Gonzalez', in Ana Flavia Magalhães Pinto and Sidney Chalhoub (eds.), *Pensadores Negros - Pensadoras Negras. Brasil, Séculos XIX E XX* (Cruz das Almas, Belo Horizonte: UFRB, Fino Traço, 2016) at 395.

[34] "*Cortázarian*" is a reference to the Argentinian writer Julio Cortázar who, in his masterpiece novel *Rayuela* (1963), invites the reader to navigate the extensive book by multiple path, directions and sequences.

[35] More, see Silvia Rivera Cusicanqui and Virginia Aillón Soria, 'Introducción. Desde Los Márgenes. Pensadores Y Pensadoras Bolivianxs De La Diáspora', in Silvia Rivera Cusicanqui and Virginia Aillón Soria (eds.), *Antologías Del Pensamiento Boliviano Contemporáneo* (Ciudad Autónoma de Buenos Aires: CLACSO, 2015) at 16.

[36] Hortense J. Spillers, 'Mama's Baby, Papa's Maybe: An American Grammar Book', *Diacritics, Culture and Countermemory: The "American" Connection. The Johns Hopkins University Press,* 17/2 (1987), 64-81 at 67.

ontological body and the mechanism of othering. By conducting a historic material analysis, the dissertation draws a cartography of the colonial-slave regime and its mechanism of othering in the making of whiteness, masculinity, heteronormativity and in the marginalization of the Others (black, indigenous, female, homosexual people). The body is comprehended as the territory of colonial commodification, domination and exploitation. The role of legal structures in the consolidation of property, land, body, labor and family is traced throughout the chapter.

Moving on from the ontological othering, **chapter two** examines the political formation of the collective body in the form of the nation. By mapping the landmark works theorizing the modern invention of the nation state, the chapter investigates the process of racializing nation and nationalizing race. At this point, the examination focuses more on the third dimension of articulation regarding the institutional organization of bodies. The transition from the colonial state to the so-called 'independent' developmental nation state is analyzed, as well as the invention of the 'imagined' community. The process of the homogenization of language, memory, and identity towards the goal of creating the 'soul' or 'spiritual principle' of the nation is traced across Brazilian history. Finally, the nation state is politically legitimized by the modern discourse of democracy in terms of legal equality, citizenship and political representation.

In the concluding **chapter three**, the dissertation faces the current context of globalization of authoritarian governments, 'gender ideology' and neoliberal extractivist economies. As previously mentioned, this research focuses on the crisis within its potentiality of transformations. In this part, the articulations of social movements outlined by the third dimension of articulation is the main soil of reflection. That is to say, the last chapter maps strategies, counter-projects and micropolitics of transformation carried out by peripheric women *from below* and *from within,* in the continual decolonial struggle for survival and the reinvention of another form of social community. The collapse of neocolonial structures in examined in regard to four main layers: the politics of rights, the division of labor, the judicial system, and institutional politics.

Methodological and Epistemological Considerations

Method constitutes the frame through which reality can be regarded; a frame that organizes the apprehension of knowledge by determining what counts and what does not; what is knowledge and what is not; what is visible and what is not. The delineation of questions, the tracing of concepts, and the boundaries of disciplines all directly impact not only the way of saying (methodology) but also what it is that is actually being said (epistemology). It is not by chance that critical epistemologies such as decolonial, postcolonial, critical race, feminist, queer, and post-structuralist have been dedicating so much ink and pages to the issue.[37]

The classic approach often produces a dichotomic perception of method between content and form, qualitative and quantitative, descriptive and analytical, normative and dogmatic, empirical and theoretical, micro and macro, critical and applied. Differently, this research aims to blur these binary lines.

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[37] See J. Acker, K. Barry, and J. Esseveld, 'Objectivity and Truth: Problems in Doing Feminist Research', *Women's Studies International Forum,* 6/4 (1982a), 423-35, Chandra Talpade Mohanty, 'Under Western Eyes: Feminist Scholarship and Colonial Discourses', *Boundary 2, On Humanism and the University I: The Discourse of Humanism,* 12/3 (1984), 333-58, Gayatri Chakravorty Spivak, *Can the Subaltern Speak?* (Basingstoke: Macmillan, 1988), Katherine T. Bartlett, 'Feminist Legal Methods', *Harvard Law Review,* 103/4 (1990), Catharine Mackinnon, *Toward a Feminist Theory of the State* (Cambridge, Massachusetts: Harvard University Press, 1991). Audre Lorde, 'Age, Race, Class, and Sex: Women Redefining Difference', *Sister Outsider: Essays and Speeches,* (1984), 114-23 at 123. Boaventura De Sousa Santos, *Epistemologies of the South. Justice against Epistemicide* (2016 edn.; London and New York: Routledge, 2014). Anibal Quijano, 'Colonialidade Do Poder, Eurocentrismo E América Latina', *A Colonialidade Do Saber: Eurocentrismo E Ciências Sociais. Perspectivas Latino-Americanas* (Buenos Aires, Argentina: CLACSO, 2005), Achille Mbembe, *Critique of Black Reason* (New York: Duke University Press, 2013). Ramón Grosfoguel, 'Decolonizing Post-Colonial Studies and Paradigms of Political Economy: Transmodernity, Decolonial Thinking, and Global Coloniality', *Transmodernity: Journal of Peripheral Cultural Production of the Luso-Hispanic World,* 1/1 (2011), Antony Anghie, *Imperialism, Sovereignty and the Making of International Law* (Cambridge Studies in International and Comparative Law; New York: Cambridge, 2004), Michel Foucault, 'Diálogo Sobre o Poder', *Ditos E Escritos* (2nd edn., IV. Estratégia, Poder-Saber; Rio de Janeiro: Forense Universitária, [1978] 2006).

Field of Law

First and foremost, I acknowledge the challenges of proposing a non-conventional approach to the traditional field of law. Likewise, the scholar Carol Smart stresses the difficulties of problematizing traditional methods within the rigid walls of legal studies:

> In the discipline of law there is almost a double suicide involved. Not only does the dissenter challenge academic standards, but also the standards of law as a profession. Inasmuch as law has a direct practical application, the dissenter in law is more subversive than in a discipline like sociology. The former challenges the standing of judges, barristers, and solicitors as well as academic lawyers. Little wonder then that feminism has such a hard time taking root in law.[38]

For this reason, the thesis starts in the chapter ~~minus~~ one with the aim of demonstrating how traditional legal approaches are not sufficient enough to address the complex and transnational problems of violence posed by this dissertation. Additionally, I underline here the importance of bringing critical, decolonial and feminist debates into the arena of legal scholarship, instead of, for instance, developing the research in one specialized niche of Gender, Latin American or Decolonial studies.

That is to say, the debates around gender and race have often been relocated to the department of Gender Studies; decolonial and postcolonial debates to the departments of Decolonial, Postcolonial, African, or Latin American Studies. The fragmentation of discourses within the walls of academic departments harms the crucial discussion of coloniality, gender, race and class inside traditional departments such as Law, Politics and Philosophy.[39] Without underestimating the importance of the aforementioned departments, the point here is to stress the need for disputing classic conceptualizations and methods within the legal department itself.

As a result of such a fragmentation of discourse, this study exposes an extensive gap in the conversation between decolonial and feminist studies within the legal literature. Regarding decolonial studies, most of the works were written by social scientists and philosophers, and the milestone books and papers have been predominantly produced by

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[38] Cf. Carol Smart, *Feminism and the Power of Law* (London and New York: Routledge, 1989) at 21.
[39] Similarly, see Judith Butler, *Undoing Gender* (New York: Routledge, 2004) at 245-6.

men and focused exclusively on the racial dimension of colonialism.[40] Examining postcolonial theory, the critical legal strand is predominantly concerned with the field of international law, that composes the movement known as "Third World Approaches to International Law" (TWAI), for example.[41] However, this school of thought is situated within the demarcation of the Bandung Conference of 1955 which involved only Asian and African states. Finally, feminist legal scholars have been mostly focused on the way that law is interpreted and used as a masculinized power to oppress and discriminate women; but their main debates have been still often located in the 'Global North', and almost none mention of Latin American female thinkers is made.[42] In this context, this research attempts to contribute to an emerging dialogue between decolonial, feminist, critical race, and queer epistemologies within legal studies.

By proposing a cross disciplinary reading of the law, this work will perceive it both as: a social practice and a political discourse; a mechanism that solidifies the structures of power within society and, yet, a tool for transforming these same structures. No traditional or simplistic methodology can therefore be adopted.

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[40] Cf. Quijano, 'Colonialidade do Poder, Eurocentrismo E América Latina'. Aníbal Quijano, '¡Qué Tal Raza!', *Revista Venez. de Economía y Ciencias Sociales,* 6/1 (2000), 37-45. Walter Mignolo, 'Decolonizing Western Epistemology/Building Decolonial Epistemologies', *Decolonizing Epistemologies. Latina/O Theology and Philosophy* (New York: Fordham University Press, 2012). Nelson Maldonato-Torres, 'Epistemology, Ethics, and the Time/Space of Decolonization: Perspectives from the Caribbean and the Latina/O Americas.', *Decolonizing Epistemologies - Latina/O Theology and Philosophy* (New York: Fordham University Press, 2012). Anonymous, *El Giro Decolonial. Reflexiones Para Una Diversidad Epistémica Más Allá Del Capitalismo Global*, eds Santiago Castro-Gómez and Ramón Grosfoguel (Bogotá: Siglo del Hombre Editores; Universidad Central, Instituto de Estudos Sociales Contemporaneos y Pontificia Universidad Javeriana, Instituto Pensar, 2007), Ramon Grosfoguel, 'Dilemas Dos Estudos Étnicos Norte-Americanos: Multiculturalismo Identitário, Colonização Disciplinar E Epistemologias Decoloniais', *São Paulo: Ciência e cultura,* 59/2 (2007).

[41] Cf. Anghie, *Imperialism, Sovereignty and the Making of International Law.* Balakrishnan Rajagopal, 'International Law and Social Movements: Challenges of Theorizing Resistance', *Columbia Journal of Transnatonal Law Association,* 41/Number 2 (2003a), 397-433, Balakrishnan Rajagopal, *International Law from Below. Development, Social Movements, and Third World Resistance* (Cambridge: Cambridge University Press 2003b). Upendra Baxi, 'Law, Democracy, and Human Rights', *Lokayan Bulletin,* 5/4/5 (1987).

[42] Cf. Catharine A. Mackinnon, *Toward a Feminist Theory of the State* (Cambridge, Massachusetts and London: Harvard University Press, 1989). Smart, *Feminism and the Power of Law.* Hilary Charlesworth, Christine Chinkin, and Shelley Wright, 'Feminist Approaches to International Law', *The American Journal of International Law,* 85/4 (Oct. 1991), 613-45, Bartlett, 'Feminist Legal Methods', Isabel Cristina Jaramillo, 'La Crítica Feminista Al Derecho', in Robin West (ed.), *Género y Teoría Del Derecho* (Bogotá: Siglo de Hombres Editores, Facultad de Derecho de la Universidad de Los Andes, Ediciones Uníandes, Instituto Pensar, 2000), 27-66, Fabiana Cristina Severi, *Lei Maria Da Penha E O Projeto Jurídico Feminista Brasileiro* (Rio de Janeiro: Lumen Juris, 2018), Andrea Cornwall and Maxine Molyneux, 'The Politics of Rights—Dilemmas for Feminist Praxis: An Introduction', *Third World Quarterly,* 27/7 (2006), 1175 – 91, Frances Olsen, 'The Sex of Law', *Feminism and Critical Legal Theory: An American Perspective,* 18 International Journal of the Sociology of Law (1990).

Rather, the work is seeded in the combination of five interconnected layers of the (methodological) earth: **(i)** standpoint epistemology; **(ii)** materialist mode of investigation; **(iii)** genealogical analysis of discourse and subjugated knowledges; **(iv)** cartography; and **(v)** oral history/fieldwork.

Academic works, particularly the ones located in the 'Global North', are predominantly assumed as scientific, neutral, objective and universal. Universal theories are defined as valid regardless of the historical context or the material basis. In contrast, researches in the 'Global South' or framing the 'Third World' have often been particularly localized, with results and conclusions narrowly reduced to the specificity of the analyzed space. [43] "Remember, the minority's voice is always personal; that of the majority, always impersonal," notes Trinh T. Minh-Ha. [44]

Moreover, authors are not only localized within the geopolitical space, but also within their own body, categorized predominantly in terms of gender, race and sexuality. In this respect, in *Rethinking Standpoint Epistemology: What Is "Strong Objectivity"?* (1993),

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[43] See Mohanty, 'Under Western Eyes: Feminist Scholarship and Colonial Discourses', Spivak, *Can the Subaltern Speak*, Lélia Gonzalez and Carlos Hasenbalg (Eds.), *Lugar De Negro* (Rio de Janeiro: Editora Marco Zero Limitada, 1982), Lélia Gonzalez, 'Racismo e Sexismo Na Cultura Brasileira', *Revista Ciências Sociais Hoje, ANPOCS,* (1984), 223-44, Trinh T. Minh-Ha, *Woman, Native, Other. Writing Postcoloniality and Feminism* (Bloomington and Indianapolis: Indiana University Press, 1989), Yuderkys Espinosa Miñoso, 'El Sentido De La Teoria Y La Academia', Yuderkys Espinosa Miñoso, 'Ethnocentrism and Coloniality in Latin American Feminisms: The Complicity and Consolidation of Hegemonic Feminists in Transnational Spaces', *Venezuelan Journal of Women Studies,* 14/n° 32 (2009), Breny Mendoza, 'La Epistemologia Del Sur, Colonialidad De Genero Y Feminismo', in Yuderkys Espinosa Miñoso (ed.), *Aproximaciones Críticas a Las Prácticas Teórico-Políticas Del Feminismo Latinoamericano* (1: En la frontera, 2010), Yuderkys Espinosa Miñoso, 'Los Desafíos de las Prácticas Teórico-Políticas del Feminismo Latinoamericano en el Contexto Actual', in Virginia Vargas, Raphael Hoetmer, and Mar Daza (eds.), *Crisis y Movimientos Sociales en Nuestra América* (Lima, Peru: Programa Democracia y Transformación Global, 2012), Yuderkys Espinosa Miñoso, 'Una Crítica Descolonial a La Epistemología Feminista Crítica', *El Cotidiano 184,* Género u crítica descolonial/marzo-abril (2014), 7-12, Ochy Curiel, 'Descolonizando el Feminismo: Una Perspectiva desde America Latina Y El Caribe', in Formación y Acción Feminista (Glefas) Y El Instituto De Género de la Universidad De Buenos Aires Grupo Latinoamericano de Estudios (ed.), *Primer Coloquio Latinoamericano sobre Praxis y Pensamiento Feminista* (Buenos Aires, 2009), Grada Kilomba, *Plantation Memories. Episodes of Everyday Racism* (5 edn.; Münster: Unrast, 2019). Gurminder K. Bhambra, 'Comparative Historical Sociology and the State: Problems of Method', *Cultural Sociology,* 10/3 (2016), 335-51. Linda Alcoff, 'The Problem of Speaking for Others', *Cultural Critique,* 20/Winter, 1991-1992 (1992), 5-32 at 12, Sandra Harding, 'Rethinking Standpoint Epistemology: What Is "Strong Objectivity"?', in Linda Alcoff and Elizabeth Potter (eds.), *Feminist Epistemologies* (London: Routledge, 1993). More, see Santos, *Epistemologies of the South. Justice against Epistemicide.* Frantz Fanon, *Black Skin, White Masks,* trans. Translated by Richard Philcox (2008 edn.; New York: Grove Press, 1952), Achille Mbembe, 'A Universalidade De Frantz Fanon', *Article from the preface of Oeuvres, published by La Découverte. South Africa, Cape Town.,* (2011). Maldonato-Torres, 'Epistemology, Ethics, and the Time/Space of Decolonization: Perspectives from the Caribbean and the Latina/O Americas.', Anonymous, *El Giro Decolonial. Reflexiones Para Una Diversidad Epistémica Más Allá Del Capitalismo Global.*

[44] Trinh T. Minh-Ha, *Woman, Native, Other. Writing Postcoloniality and Feminism* (Bloomington and Indianapolis: Indiana University Press, 1989) at 44-5.

Sandra Harding points out the way that objectivity and neutrality have been claims used by established structures that are based on racism and sexism. In her words:

> The very notions of objectivity and neutrality have been related to its use in imperialist, racist, and sexist scientific projects, often tied to binary division between subject and object of knowledge, also framed as the self and the Other. Therefore, the so-called neutral means were revealed to be masking political and social androcentric and Eurocentric universalist considerations.[45]

In the 1980s and 1990s, a broader critical scholarship questioned the so-called 'neutral' methodologies by demonstrating how they were actually gender- and race-based.[46] This work joins the **(i) standpoint epistemology** in affirming that every knowledge production is localized, shaped by the very author, and inserted within a specific political and social context.[47] Moving from the abstract to the concrete, the critical approach adopted here, to paraphrase Wendy Brown, "promises not objectivity but perspective".[48]

In this regard, the dissertation adopts a **(ii) materialist mode of investigation** for analyzing the historic conjunctures of legal discourse in its colonial and neocolonial forms. This does not mean to ignore or dismiss the local-global nexus inaugurated by colonialism. That is to say, although the examination is framed in Brazil, it is not limited to it.

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[45] Harding, 'Rethinking Standpoint Epistemology: What Is "Strong Objectivity"?', at 61.

[46] See Michèle Barrett, *Women's Oppression Today. The Marxist/Feminist Encounter* (2014 edn.; London, New York: Verso, 1980), Ann Oakley, 'Interviewing Women: A Contradiction in Terms', in H. Roberts (ed.), *Doing Feminist Research* (London: Routledge and Kegan Paul, 1981), J. Acker, K. Barry, and J. Esseveld, 'Objectivity and Truth: Problems in Doing Feminist Research', *Women's Studies International Forum, 6/4* (1982b), 423-35, Maria Mies, 'Towards a Methodology for Feminist Research', in Gloria Bowles and Renate Duelli Klein (eds.), *Theories of Women's Studies.* (Boston: Routledge, 1983), 117-39, Bell Hooks, *Feminist Theory - from Margin to Center* (Boston: South End Press, 1984), Mohanty, 'Under Western Eyes: Feminist Scholarship and Colonial Discourses', Sandra Harding (Ed.), *Feminism and Methodology* (Bloomington: Indiana University Press, 1987), Donna Haraway, 'Situated Knowledges: The Science Question in Feminism and the Privilege of Partial Perspectives', *Feminist Studies, 14/3* (1988), 575-99, Kimberle Crenshaw, 'Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics', *University of Chicago Legal Forum, /1* (1989), 139-67, Mackinnon, *Toward a Feminist Theory of the State*, Bartlett, 'Feminist Legal Methods', Patricia Hill Collins, *Black Feminist Thought: Knowledge, Consciousness, and the Politics of Empowerment* (2000 edn.; New York: Routledge, 1990), Harding, 'Rethinking Standpoint Epistemology: What Is "Strong Objectivity"?'.

[47] More, see Mohanty, 'Under Western Eyes: Feminist Scholarship and Colonial Discourses', Gonzalez, 'Racismo e Sexismo na Cultura Brasileira', Collins, *Black Feminist Thought: Knowledge, Consciousness, and the Politics of Empowerment*, Djamila Ribeiro, *O Que É Lugar De Fala* (Feminismos Plurais; Belo Horizonte: Letramento, Justificando, 2017b). Bartlett, 'Feminist Legal Methods', at 880. Kirstie Mcclure, 'On the Subject of Rights: Pluralism, Plurality and Political Identity', in Chantal Mouffe (ed.), *Dimensions of Radical Democracy. Pluralism, Citizenship, Community* (London: Verso, 1992) at 122. Haraway, 'Situated Knowledges: The Science Question in Feminism and the Privilege of Partial Perspectives', Sandra Harding, *The Science Question in Feminism* (Ithaca, NY: Cornell University Press, 1986).

[48] Wendy Brown and Janet Halley, 'Introduction', in Wendy Brown and Janet Halley (eds.), *Left Legalism / Left Critique* (Durham: Duke University Press, 2002) at 26.

Regarding the historic conjunctures, there are three main readings in the feminist literature regarding the existence of a patriarchal gender binary in the period previous to colonization in the Americas and Africa.[49] (a) The Eurocentric feminism which considers gender and patriarchal domination as a universal problem without taking into consideration singularities and differences. Hence, in order to comprehend gender roles or domination, colonialism ends up not even being considered. (b) At the other extreme, a group of scholars defends the non-existence of gender in the pre-colonial world. This can be exemplified by the work of the African sociologist Oyéronké Oyewùmi and the Argentinian philosopher María Lugones, for instance. Instead of simply classifying the two authors at the same target, I believe it is important to distinguish between their works. In *The invention of women* (1997), Oyewùmi argues the absence of gender in the period previous to colonization based on a material analysis on African Yoruba historical traditions. Lugones, while agreeing with this non-existence of gender hierarchies in pre-colonial Latin America, does not demonstrate that point within Latin American historical data, but rather by referring to the particular works of Oyewùmi and Paula Allen that were situated within African and North American contexts. Without dismissing the importance of Lugone's contributions to this gender hierarchy debate, I point out the incompleteness of her argument.[50] (c) Finally, the third strand recognizes that the indigenous and Afro-American societies might have had a different type of patriarchal organization before European domination and colonization. Following the latter position, the historian Susan Kellogg presents in her book *Weaving the Past* (2005), an extensive research on Latin American women, including indigenous communities from South and Central America (Mesoamerican peoples, Andean region, lowland cultures of South America and the peoples of the Circum-Caribbean, and Brazil). She claims that previous to colonization, there were a multiplicity of ways in which gender was perceived in Latin America, depending on the particular area and community. For example, the Kuna community (located in what is now Panama and Colombian) presented a diversity of gender roles not seen elsewhere in Central America. They classified individuals as male, female, "*macharetkit*", or, more commonly, "*omekit.*" "*Macharetkit*" seems to refer to a female transgression of roles, alluding to either tomboys or women who may carry out male roles in labor. "*Omekit*" designated individuals who "sometimes marry women but usually have

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[49] Cf. Rita Segato, 'Colonialidad y Patriarcado Moderno: Expansión Del Frente Estatal, Modernización, y La Vida de Las Mujeres', in Yuderkys Espinosa Miñoso, Diana Gómez Correal, and Karina Ochoa Muñoz (eds.), *Tejiendo De Otro Modo: Feminismo, Epistemología Y Apuestas Descoloniales En Abya Yala* (Popayán, Colômbia: Editorial Universidad del Cauca, 2014) at 73-77.

[50] See Maria Lugones, 'Colonialidad Y Genero', *Tabula Rasa,* /n° 9 (2008), 73-101 at 78.

sexual relations with men". Rural Kuna men usually preferred rural "*omekit*" to the urban ones. Both rural and urban Kuna women had positive opinions about "*omekits*", and thought that any woman who had an *omekit* son was fortunate. This third strand argues that, during and after colonization, gender ideologies were violently homogenized by European standards.[51] This work would be placed closer to the third reading.

Despite the pre-colonial discussion just described, this dissertation will not be concerned with such timeframe (previous to colonization) but rather interested in the period from colonization up to the present time.

For conducting a material excavation, this work adopts the **(iii) genealogical method of discourse analysis**. According to Michel Foucault, genealogy "attempts to restore the conditions for the appearance of a singularity born out of multiple determining elements of which it is not the product, but rather the effect."[52]

In this regard, we will further analyze the interplay of power-knowledge-subject. As Foucault explains, knowledge conforms to "a set of rules and constraints characteristic, for example, of a given type of scientific discourse in a given period" which shapes what is perceived as scientifically validated, rational or generally accepted; and conversely, power is deployed according to the forms prescribed by the system of knowledge.[53] "It is therefore not a matter of describing what knowledge is and what power is and how one would repress the other or how the other would abuse the one, but rather, a nexus of knowledge-power has to be described so that we can grasp what constitutes the acceptability of a system."[54]

The collective imaginaries and forms of apprehending the socially constructed truth are key elements in the expansion of colonialism not only by territorial occupation, but also by the geopolitics of knowledge. Colonial legacies predominantly shape our perception of knowledge, academic production, segregation and categorization of disciplines, methodologies, etc. The inter-relation between colonialism and knowledge

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[51] See Susan Kellogg, *Weaving the Past: A History of Latin America's Indigenous Women from the Prehispanic Period to the Present* (Oxford, New York: Oxford University Press, 2005) 338 at 161. Regarding African people, bell hooks sustains that "black male sexism existed long before American slavery". See Bell Hooks, *Ain't I a Woman. Black Women and Feminism* (London: Pluto Press, 1982) at 72-4, 88.

[52] Michel Foucault, 'What Is Critique?', in Sylvère Lotringer (ed.), *The Politics of Truth* (2 edn.; New York: Semiotext(e), [1978] 2007) at 64.

[53] Ibid., at 61.

[54] Ibid.

production has been named as *colonialidad de saber* (coloniality of knowledge), or *colonialismo interno* (internal colonialism).[55]

Drawing on the marginalization of bodies, voices, and epistemologies, there is a structural negation of non-Western knowledge, through which black and indigenous people have been continually perceived as objects of science instead of subjects of knowledge. This epistemic violence has been named by black feminisms in Brazil as *epistemicide*.[56] Such violence especially impacts Latin American women who have been ignored by the Global North, barely mentioned in decolonial and postcolonial debates, and profoundly neglected by most feminist bibliographical references.

Tackling the structural marginalization of their knowledge, this dissertation embraces the challenge to excavate "subjugated knowledges". According to Michel Foucault, subjugated knowledges refer to:

> I believe that by subjugated knowledges [...] a whole set of knowledges that have been disqualified as inadequate to their task or insufficiently elaborated: naive knowledges, located low down on the hierarchy, beneath the required level of cognition or scientificity. [...] a particular, local, regional knowledge, a differential knowledge incapable of unanimity and which owes its force only to the harshness with which it is opposed by

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[55] On *colonialidad de saber*, see Quijano, 'Colonialidade do Poder, Eurocentrismo e América Latina', Enrique Dussel, 'Europa, Modernidade e Eurocentrismo', in Edgardo Lander (ed.), *Colonialidade Do Saber: Eurocentrismo e Ciências Sociais. Perspectivas Latino-Americanas* (Colección Sur Sur; Buenos Aires: CLACSO, 2005), Nelson Maldonato-Torres, 'A Topologia do Ser e a Geopolítica do Conhecimento. Modernidade, Império e Colonialidade', *Revista Crítica de Ciências Sociais,* 80 (2008), Edgardo Lander, 'Ciências Sociais: Saberes Coloniais E Eurocêntricos', in Edgardo Lander (ed.), *A Colonialidade do Saber: Eurocentrismo e Ciências Sociais* (Buenos Aires: CLACSO, 2005). On *colonialismo interno*, see Silvia Rivera Cusicanqui, *Ch'ixinakax Utxiwa. Una Reflexión Sobre Prácticas Y Discursos Descolonizadores* (Buenos Aires: Tinta Limón, 2010) at 63.

[56] For more information, see Aparecida Sueli Carneiro, 'A Construção do Outro como Não-Ser como Fundamento do Ser', (Universidade de São Paulo (USP), 2005a) at 61, Jurema Werneck, 'Nossos Passos Vêm De Longe - Movimentos De Mulheres Negras E Estratégias Políticas Contra o Sexismo e o Racismo', *Revista da Associação Brasileira de Pesquisadores(as) Negros(as),* 1/1 (2010) at 10. Gonzalez, 'Racismo e Sexismo Na Cultura Brasileira', Sueli Carneiro, 'Ennegrecer Al Feminismo La Situación De La Mujer Negra En América Latina Desde Una Perspectiva De Género', *Nouvelles Questions Féministes,* 24/Feminismos disidentes en América Latina y el Caribe. Edición especial en castellano, nº 2. (2005b), Maldonato-Torres, 'Epistemology, Ethics, and the Time/Space of Decolonization: Perspectives from the Caribbean and the Latina/O Americas.', Rita Segato, 'Colonialidad Y Patriarcado Moderno: Expansión Del Frente Estatal, Modernización, Y La Vida De Las Mujeres', in Yuderkys Espinosa Miñoso, Diana Gómez Correal, and Karina Ochoa Muñoz (eds.), *Tejiendo De Otro Modo: Feminismo, Epistemología Y Apuestas Descoloniales En Abya Yala* (Popayán, Colômbia: Editorial Universidad del Cauca, 2014), Mignolo, 'Decolonizing Western Epistemology/Building Decolonial Epistemologies', Grosfoguel, 'Dilemas dos Estudos Étnicos Norte-Americanos: Multiculturalismo Identitário, Colonização Disciplinar e Epistemologias Decoloniais', Marisa Ruiz Trejo, 'Historia de las Epistemólogas, Metodólogas y Feministas en México y Centroamérica', *III Congreso de Historia Intelectual de América Latina, "Formas de historia intelectual. Teoría y praxis"* (Ciudad de México, 2016), Mendoza, 'La Epistemologia del Sur, Colonialidad de Genero y Feminismo', Miñoso, 'Una Crítica Descolonial a la Epistemología Feminista Crítica', Djamila Ribeiro, *O Que É: Lugar De Fala?* (Feminismos Plurais. Justificando; Belo Horizonte: Letramento, 2017a) at 18. Miñoso, 'Ethnocentrism and Coloniality in Latin American Feminisms: The Complicity and Consolidation of Hegemonic Feminists in Transnational Spaces', at 46-7. Mendoza, 'La Epistemologia del Sur, Colonialidad de Genero y Feminismo', at 20-1.

everything surrounding it - that it is through the re-appearance of this knowledge, of these local popular knowledges, these disqualified knowledges, that criticism performs its work.[57]

For accessing subjugated knowledges, Foucault developed an in-depth archival excavation.[58] Archives embody the collection of symbolical elements in the tracing of memories, narratives, events. Since the 1800s, period of the first decolonial independence in the Americas, the notion of archive has been transformed into an institutional monument of official historiography, by producing the linear narrative of modern nation state.[59]

Regarding Brazil, an archival excavation to access subjugated knowledges would not be a very successful because both the slavery (1890) and the indigenous archives (2018) were politically and officially destroyed.[60] In this way, the neocolonial production of forgetting and the national silencing of subjugated voices accentuates even more intelligibly the challenges implicated in conducting such an excavation in Brazil.

Facing the obstacles in the field of archival research, historians relied on legal documents (Inquisition records, testimonies, judicial decisions), national journals, international letters and written works from European travelers. Indeed, as pointed out by the historians João Reis and Herbert Klein, the judicial archives have been drawn on for recent research projects in Brazilian slavery studies.[61] Despite the importance of these sources, they still present only one side of the narrative: the institutional, the elitist and the Western side.[62] An example of that is expressed by Lamonte Aidoo in regard to the inquisition records when he recognizes that the "majority of the confessions and denunciations were brought by white women or men" and that the "voices of black,

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57 Michel Foucault, 'Two Lectures: Lecture One. 7 January 1976', in Michel Foucault and Colin Gordon (eds.), *Power/Knowledge: Selected Interviews and Other Writings, 1972-1977* (New York: Pantheon Books, [1976] 1980) at 81-2.

58 An example is his dissertation on the History of Madness. See Michel Foucault, *Histoire De La Folie À L'âge Classique* (Paris: Gallimard, 1972).

59 More, see Benedict Anderson, *Imagined Communities. Reflections on the Origin and Spread of Nationalism* (Revised edn.; London, New York: Verso, 1983).

60 In 1890, it was the Minister of Affairs, Rui Barbosa, who ordered to completely burn and destroy the slavery's registers. In 2018, as a result of public budget cuts, and despite the several reports of the risk of fire, the precarious Brazilian National Museum was burned down. The fire destroyed most of the 20 million archival items. See Américo Jacobina Lacombe, Eduardo Silva, and Francisco De Assis Barbosa, *Rui Barbosa E a Queima Dos Arquivos* (Brasília, Rio de Janeiro: Ministério da Justiça, Fundação Casa de Rui Barbosa, 1988) at 11-26. Renata Giraldi, 'Incêndio Atinge Museu Nacional Do Rio De Janeiro', *Agência Brasil,* 02.09.2018.

61 João José Reis and Herbert S. Klein, 'Slavery in Brazil', in Jose C. Moya (ed.), *The Oxford Handbook of Latin American History* (New York: Oxford University Press, 2011) at 185.

62 Ligia Bellini, *A Coisa Obscura. Mulher, Sodomia E Inquisição No Brasil* (São Paulo: Brasiliense, 1987) at 21.

mixed-race, and indigenous women are virtually absent".[63] In a similar way, the scholar Beatriz Nascimento complains about the way that historical documentation on *quilombos* (17th to 18th centuries) were not available at either the National Archive in Rio de Janeiro or at the Public Archive in Minas Gerais.[64] Moreover, the remarks made by the Europeans who traveled to Brazil, such as Hans Staden, Louis Couty, Arthur Gobineau and Louis Agassiz, were contributors for the emergence of scientific racist theories in Europe.[65]

As a result of all this, there is a remaining gap within the Latin American scholarship regarding the memories of native and black women from Brazil.[66] In her landmark book, *Moon, Sun, and Witches: Gender Ideologies and Class in Inca and Colonial Peru* (1987), Irene Silverblatt examined the colonial impact on native populations in the Peruvian Andes, especially focusing on the interplay between political hierarchy and racialized gender roles. More recently, in *Weaving the Past: A History of Latin America's Indigenous Women from the Prehispanic Period to the Present* (2005), Susan Kellogg presented an updated and broader research on native women across Latin America, including the often-dismissed Brazil. Likewise, the conditions of black women that were enslaved in Brazil

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[63] Lamonte Aidoo, *Slavery Unseen. Sex, Power, and Violence in Brazilian History* (Durham and London: Duke University Press, 2018) at 71.

[64] Beatriz Nascimento, 'Kilombo e Memória Comunitária: Um Estudo De Caso', in Alex Ratts (ed.), *Eu Sou Atlântica: Sobre a Trajetória De Vida De Beatriz Nascimento* (2007 edn.; São Paulo: Imprensa Oficial do Estado de São Paulo; Instituto Kuanza, 1982) at 113.

[65] Hans Staden's narrative has been considered as the foundational text in the European history of 'discovery' of Brazil, touchstone in the debates on cannibalism, as well as the earliest European account of the Tupi Indians. Cf. Hans Staden, *Hans Staden's True History: An Account of Cannibal Captivity in Brazil*, trans. Neil L. Whitehead and Michael Harbsmeier (Durham: Duke University Press, [1557] 2008), Arthur De Gobineau, *Essai Sur L'inégalité Des Races Humaines (1853-1855)* (Paris: Éditions Pierre Belfond, 1967). Arthur De Gobineau, *Arthur De Gobineau Et Le Bresil: Correspondance Diplomatique Du Ministre De France à Rio De Janeiro 1869-1870*, ed. Jean-François De Raymond (Grenoble: Presses Universitaires de Grenoble, 1990). More, see Thomas E. Skidmore, *Preto No Branco: Raça e Nacionalidade No Pensamento Brasileiro, 1870-1930* trans. Donaldson M. Garschagen (2012 edn.; São Paulo: Companhia das Letras, [1976] 2012).

[66] Even though Latin American female writers can be dated back to the seventeenth century, (i.e. see the Mexican self-taught scholar Sor Juana Inés de la Cruz Elena Ruíz, 'Theorizing Multiple Oppressions through Colonial History: Cultural Alterity and Latin American Feminisms', *APA Newsletter on Hispanic/Latino Issues in Philosophy,* 11/2 (2012), 5-9 at 8) it was only in 1970 that the region had its firsts academic series of publications on the issue. (Juan José Veja, "*Micaela Bastidas y las heroínas tupamaristas*" from 1972. Irene Silverblatt, "*Principios de la organización femenina en el Tawantinsuyu*" from 1976 Sara Beatriz Guardia, 'Historia de Las Mujeres: Un Derecho Conquistado', in Sara Beatriz Guardia (ed.), *Escritura De La Historia De Las Mujeres En América Latina. El Retorno De Las Diosas* (Peru: Centro de Estudios La Mujer en la Historia de América Latina CEMHAL, 2005) at 18-19. In 1976, Ann Pescatello was the first one to present an overview of Ibero-American coloniality focusing on women in her book "*Power and Pawn: The Female in Iberian Families, Societies and Cultures*". In the same year, Elinor Burkett produced a book stressing the importance of race and class as analytical categories for understanding gender in colonial society, namely "*In Dubious Sisterhood: Class and Sex in Spanish Colonial America*". Pablo Macera, "*Sexo y coloniaje*" from 1977). In 1978, Asunción Lavrin organized the first compilation on a topic called "*Las mujeres latinoamericanas. Perspectivas históricas*" in which she gathered investigations especially focused on indigenous women. Cf. María Teresa Díez Martín and Celia Parcero Torre, 'Perspectivas Historiográficas: Mujeres Indias En La Sociedad Colonial Hispanoamericana. Siglo XVI-XVIII', ibid. at 161.

have been undertheorized. In *Mulher e Escrava* (1988), Sonia Giacomini contributes to correcting this historical omission while lamenting the material difficulties in conducting such an investigation.[67] Giacomini's classic research has been followed by the latest publication from Lamonte Aidoo: *Slavery Unseen. Sex, Power, and Violence in Brazilian History* published in 2018.[68]

In this regard, the materialistic mode of this dissertation involves both the making of new cartographies of knowledge and the engagement with oral histories (body-archive) in order to access subjugated knowledge. Historically, maps and cartographies were produced by military and colonial forces in order to incorporate and control geographical space. Both elements profoundly shaped the way "colonial state imagined its domain – the nature of the human beings it ruled, the geography of its domain, and the legitimacy of its ancestry".[69] In this way, the dissertation contests and disputes the lines traced by colonial cartographies while proposing **(iv) *another* cartography of knowledge**.

Flora Tristan, Maria Firmina dos Reis, Nísia Floresta, Bertha Luz, Laudelina de Campos Melo, Rose Marie Muraro, Heleieth Saffioti, Lélia Gonzalez, Luiza Bairros, Virginia Bicudo, Edna Roland, Beatriz Nascimento, Sueli Carneiro, Jurema Werneck, Denise Ferreira, Flavia Biroli, Claudia de Lima Costa, Rita Segato, Maria Lugones, Karina Bidaseca, Mirta Henault, Zulma Palermo, Valeria Fernandez Hasan, Veronica Gágo, Virginia Vargas, Madeleine Pérusse, Yuderkys E. Miñoso, Liliana Suárez Navaz, Alejandra Restrepo, Maria Galindo, Silvia Rivera Cusicanqui, Domitila Chungara, Julieta Paredes, Ximena Bedregal, Julieta Kirkwood, Kemy Oyarzún, Magdalena Valdivieso, Alba Carosio, Catherine Walsh, Dolores Cacuango, Sylvia Wynter, Breny Mendoza, Rosalva Aída Castillo, Francesca Gargallo, Xóchitl Gálvez, Regina José Galindo, Gladys Tzul, Montserrat Sagot, Epsy Campbell, Ochy Curiel, Urania Ungo, Yolanda Marco, Myrna Cunningham, are some of the names surveyed by the initial mapping across the national borders of South America. The final chapter of this dissertation further analyzes this cartography of knowledge.

By disrupting the sedimented canon of academic references and literature, the dissertation intends to give visibility to the ongoing *epistemicide* while disputing, at the same time, the dominant academic narrative of violence. The continual reproduction of the

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[67] For more on this, see Sonia Maria Giacomini, *Mulhere e Escrava. Uma Introdução Ao Estudo da Mulher Negra No Brasil* (Petrópolis/RJ, Brazil: Editora Vozes, 1988), Susan Midgen Socolow, *The Women of Colonial Latin America* (2 edn.; New York: Cambridge University Press, 2000) at 154.

[68] Cf. Aidoo, *Slavery Unseen. Sex, Power, and Violence in Brazilian History*.

[69] Benedict Anderson, *Imagined Communities. Reflections on the Origin and Spread of Nationalism* (Revised edn.; London, New York: Verso, 2006) at 163-64.

same theories and voices within academia was labeled by Kim Butler as the "Gramsci problem." In her words:

> Professors and colleagues repeatedly suggested that I consult the work of Antonio Gramsci, who wrote about the political uses of identity by both elites and disempowered groups, and the intersection of cultural power with other forms of social leverage. While this body of theory clearly related to the Brazilian case and was ultimately useful in resolving some of the conceptual problems, I repeatedly felt that it was drawing me away from the heart of the issues I wished to explore. Gramsci, after all, was working out his own problems raised by the responses of Italian peasants to economic and political reorganizations and the rise of an active Communist movement. His was a theoretical framework to help organize and analyze those specific issues, even though they had resonance for other sociohistorical situations. I felt it was equally necessary to shape a theoretical framework based on the unique experiences of the Afro-Atlantic diaspora during the postabolition era. [70]

The author stresses that her point is "not to criticize professors who recommend theoretical frameworks to their students" but to point out "the need to develop conceptual constructs that address the specific concerns," in her case, of African diaspora studies.[71] At the same line, the work embraces a politics of citation that comprehends the citational chain re-produced by academic works as part of a geopolitics of knowledge. The selection of materials and the choices of citations are political decisions about who will or will not be a part of the conversation. Thus, it has the potential to either reify a stagnant canon of knowledge or to disrupt it.[72] In the words of Sara Ahmed:

> My citation policy has given me more room to attend to those feminists who came before me. Citation is feminist memory. Citation is how we acknowledge our debt to those who came before; those who helped us find our way when the way was obscured because we deviated from the paths we were told to follow. [73]

In addition to that, in *Woman, Native, Other. Writing Postcoloniality and Feminism* (1989), Trinh T. Minh-Ha pointed out the role of theory in reproducing and maintaining structures of power and oppression. The position of the 'expert,' the 'exertion of authority', the 'Voice of Knowledge', all have mystified theoretical and academic works and disconnected both of them from social practice.[74]

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[70] Kim D. Butler, 'From Black History to Diasporan History: Brazilian Abolition in Afro-Atlantic Context', *African Studies Review* 43/1, Special Issue on the Diaspora (2000), 125-39 at 135-36.

[71] Ibid.

[72] For more on the politics of citation, see Alex Ratts, *Eu Sou Atlântica: Sobre a Trajetória De Vida De Beatriz Nascimento*, ed. Alex Ratts (São Paulo: Imprensa Oficial do Estado de São Paulo; Instituto Kuanza, 2007) at 30-1. Francesca Gargallo, 'Presentación', in Francesca Gargallo (ed.), *Antología Del Pensamiento Feminista Nuestroamericano* (Tomo I - Del Anhelo a la Emancipación, 2010) at 18.

[73] Cf. Sara Ahmed, *Living a Feminist Life* (Durham and London: Duke University Press, 2017) at 15-6.

[74] Minh-Ha, *Woman, Native, Other. Writing Postcoloniality and Feminism* at 63-5. More, see Hélène Cixous & Catherine Clément, The Newly Born Woman, tr. Betsy Wing (Minneapolis: Univ. of Minnesota Press, 1986), pp. 146, 92.

In this respect, my politics of citation does not consist in *not* quoting Western sources of knowledge. This would be worthless since it has historically and continuously influenced the production of counter-knowledge, as precisely pointed out by Edward Said.[75] Rather, it involves an *anthropophagic digestion* of Western monologue within a decolonial body towards blurring boundaries and denaturalizing the mechanical reproduction implicated in the territorialization of knowledge.[76]

Moreover, such *digestion* challenges the beliefs around ownership of knowledge while framing academic works as necessarily part of a larger process of knowledge production based on citation and reading; it is a process that therefore leads to thinking collectively. Additionally, the *anthropophagic* style is also related to cartography in terms of tracing a map that actively participates in the construction of territory rather than the mere representation of it.[77] All in all, this dissertation proposes to disrupt the monologue of North-North and to foster a South-South as well as a South-North dialogue in which both positionalities can speak and listen.[78]

In striving to sew together a transnational dialogue, I justify the use of certain terms in the original form of Portuguese, or better, of *pretoguês*. According to Lélia Gonzalez, *pretoguês* refers to the mixture of Portuguese with African or indigenous languages.[79] This decision was based on the impossibility of the translation of certain terms into English without a loss or drastic change to their original meaning. As pointed out by the historian Linda Lewin, "there is a strong case to be made for retaining

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[75] Edward W. Said, *Orientalism* (26, 2003 edn.; London: Penguin, 1978).

[76] The notion of "anthropophagic digestion" also confronts the discourse around "cannibalism" used to dehumanize indigenous people throughout colonialism. "It repulsed them most of all, the practice of "cannibalism" associated with the indigenous community of Tupinambás. Such behavior was unintelligible to the European and frightening to the missionaries, a fact that corroborated the Amerindian view as being animalistic, wild and monstrous." (Cf. Hans Staden, *Hans Staden's True History: An Account of Cannibal Captivity in Brazil*, trans. Neil L. Whitehead and Michael Harbsmeier (Durham: Duke University Press, [1557] 2008).) More on the notion of "anthropophagy", see Oswald De Andrade, 'O Manifesto Antropófago', in Gilberto Mendonça Teles (ed.), *Vanguarda Européia e Modernismo Brasileiro: Apresentação e Crítica dos Principais Manifestos Vanguardistas* (3 edn.; Petrópolis: Vozes, 1976). Eduardo Viveiros De Castro, *Metafísicas Canibais: Elementos Para Uma Antropologia Pós-Estrutural* (São Paulo: Cosac Naify, N-1, 2015) at 27-28. More on translation, see Boaventura De Sousa Santos, *Renovar a Teoria Crítica e Reinventar a Emancipação Social* (São Paulo: Boitempo, 2007) at 39-40.

[77] Suely Rolnik, 'Anthropophagic Subjectivity', *Arte ContemporâNea Brasileira: Um E/Entre Outro/S* (São Paulo: Fundação Bienal de São Paulo, 1998).

[78] For more on this, see M. Jacqui Alexander and Chandra Talpade Mohanty, 'Introduction: Genealogies, Legacies, Movements', in M. Jacqui Alexander and Chandra Talpade Mohanty (eds.), *Feminist Genealogies, Colonial Legacies, Democratic Futures* (New York and London: Routledge, 1997) at xiii, Kilomba, *Plantation Memories. Episodes of Everyday Racism*, Spivak, *Can the Subaltern Speak*, Mohanty, 'Under Western Eyes: Feminist Scholarship and Colonial Discourses'.

[79] Lélia Gonzalez, 'A Categoria Político-Cultural de Amefricanidade', *Tempo Brasileiro*, 92/93, jan.-jun. (1988a), 69-82 at 70-71.

Portuguese where English 'synonyms' either do not exist or imply different constructs, meanings, or outcomes".[80] With this remark, she explains:

> Rather than trying to harmonize linguistically what are really notions fundamentally alien to Anglo-American usage today, I have deliberately left a small number of those terms dissonant by retaining Portuguese terms. To do otherwise would be to blunt, to distort and misrepresent, or to confuse analysis of change over the century this book addresses.[81]

Drawing on that, this analysis recognizes the work of Gloria Anzaldúa as a relevant mark and inspiration in combining different languages in the same academic text. At *Borderlands/La Frontera* (1987), Anzaldúa brings to her own process of writing the argument of being situated on the border that she crosses from English to Spanish, whilst originating academic and nonacademic writings in a courageous attempt to redefine scholarly forms of producing production. By doing that, Anzaldua invites the reader to stay at the border with her.[82] Following Judith Butler's comments on Anzaldúa:

> She is asking us to stay at the edge of what we know, to put our own epistemological certainties into question, and through that risk and openness to another way of knowing and of living in the world to expand our capacity to imagine the human. She is asking us to be able to work in coalitions across differences that will make a more inclusive movement. What she is arguing, then, is that it is only through existing in the mode of translation, constant translation, that we stand a chance of producing a multicultural understanding of women or, indeed, of society. The unitary subject is the one who knows already what it is, who enters the conversation the same way as it exits, who fails to put its own epistemological certainties at risk in the encounter with the other, and so stays in place, guards its place, and becomes an emblem for property and territory, refusing self-transformation, ironically, in the name of the subject. [83]

Based on the urge of disrupting the monopolization of knowledge, this research emphasizes the value of the lived experience of those located at the bottom of the colonial hierarchies. The excavation of subjugated knowledge is here connected with the act of listening to the **(v) oral history**. That is to say, through the notion of oral history, the body is conceptualized as a living archive, a moving archive, a body-archive.[84]

Oral history has long been understood as the main form of sharing knowledge among generations and communities, especially to the historically marginalized people who have little or no access to schooling, education or the written word. As Minh-Ha

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[80] Linda Lewin, *Surprise Heirs: Illegitimacy, Patrimonial Rights, and Legal Nationalism in Luso-Brazilian Inheritance, 1750–1821* (1; Stanford, California: Stanford University Press, 2003) at xxv.

[81] Ibid.

[82] Cf. Anzaldúa, *Borderlands / La Frontera - the New Mestiza.*

[83] Butler, *Undoing Gender* at 228.

[84] See Wolfgang Ernst, 'Radically De-Historicising the Archive. Decolonising Archival Memory from the Supremacy of Historical Discourse', Decolonising Archives (2 edn.; Eletronic Publication: L'Internationale Books, 2016). Alex Ratts, *Eu Sou Atlântica: Sobre a Trajetória De Vida De Beatriz Nascimento*, ed. Alex Ratts (São Paulo: Imprensa Oficial do Estado de São Paulo; Instituto Kuanza, 2007) at 68.

recognizes, "writing, reading, thinking, imagining, speculating. These are luxury activities."[85] Oral history is emphasized by black and indigenous scholars in Latin American and receives an especial importance when regarding women.[86] In the words of the author:

> [...] in general, the situation of women does not favor literary productivity is to imply that it is almost impossible for them (and especially for those bound up with the Third World) to engage in writing as an occupation without their letting themselves be consumed by a deep and pervasive sense of guilt.[87]

Regarding the challenges of reconnecting theory and practice, the method *investigación-acción* was developed in the seventies in Latin America with the purpose of transforming the manner in which most academic researchers instrumentalized people – especially indigenous and black people. For that, the methodology presents a new paradigm for social sciences: to articulate scientific standards with social claims.[88] The movement has its roots in the work of the Brazilian Paulo Freire, especially referred in the book *Pedagogy of the Oppressed* (1968).[89]

Thus, my decision to conduct a fieldwork project as a crucial part of this investigation does not by any means dismiss its problematic grounds. Historically, fieldwork was predominantly a colonial tool used to study 'the native',[90] 'the different', that is, reinforcing the 'Other' as an object of study rather than a subject. Therefore, it operated as an instrument for the categorization, dehumanization and epistemic

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[85] Minh-Ha, *Woman, Native, Other. Writing Postcoloniality and Feminism* at 15.

[86] For more info, see Silvia Rivera Cusicanqui, 'El Potencial Epistemológico y Teórico de la Historia Oral: De La Lógica Instrumental a La Descolonización De La História', *Temas Sociales,* 11 (1987), 49-64 at 10. Cusicanqui, *Ch'ixinakax Utxiwa. Una Reflexión Sobre Prácticas y Discursos Descolonizadores* at 64. Cláudia Pons Cardoso, 'Feminisms from the Perspective of Afro-Brazilian Women', *Meridians: feminism, race, transnationalism,* 14/1 (2016), 1-29 at 4-5. Nascimento, 'Kilombo e Memória Comunitária: Um Estudo de Caso', at 109. Gargallo, 'Presentación', at 12. Domitila De Chungara and Moema Viezzer, *"Si Me Permiten Hablar…" Testimonio de Domitila, Una Mujer de las Minas de Bolivia,* ed. Moema Viezzer (Edición digital edn.; México, D.F.: Siglo XXI Editores, 2005) at 6. Stephen, *Women and Social Movements in Latin America. Power from Below* at 23. Santos, *Renovar a Teoria Crítica e Reinventar a Emancipação Social* at 20. Curiel, 'Descolonizando El Feminismo: Una Perspectiva Desde America Latina Y El Caribe', at 1-3.

[87] Minh-Ha, *Woman, Native, Other. Writing Postcoloniality and Feminism* at 16.

[88] Cusicanqui, 'El Potencial Epistemológico y Teórico de la Historia Oral: De la Lógica Instrumental a la Descolonización de la História', at 4-5.

[89] Paulo Freire, *Pedagogia Do Oprimido* (17 edn.; Rio de Janeiro: Paz e Terra, 1968). More, see Craig Calhoun, 'Foreword', in Charles R. Hale (ed.), *Engaging Contradictions: Theory, Politics, and Methods of Activist Scholarship* (Berkeley, Los Angeles, London: University of California Press, 2008) at xxv. C. Schurr and D. Segebart, 'Engaging with Feminist Postcolonial Concerns through Participatory Action Research and Intersectionality', *Geographica Helvetica,* 67 (2012), 147-54 at 149-50, Cusicanqui, 'El Potencial Epistemológico y Teórico de la Historia Oral: De la Lógica Instrumental a la Descolonización de la História', at 5.

[90] More, see Castro, *Metafísicas Canibais: Elementos Para Uma Antropologia Pós-Estrutural.* Eduardo Viveiros de Castro, 'O Nativo Relativo', *Mana,* 8/1 (2002), 113-48.

extermination of their voices.[91] In this respect, this study initially recognizes the difference between the researcher and researched and frames such a power structure as a *locus* to be reshaped and transformed by *doing differently*, instead of simply *not doing*. Thus, the attempt to conduct the fieldwork differently is based on the aims of academic and activist responsibility and positionality.[92]

Fieldwork

(a) Space and Time

The fieldwork was based in three cities in Brazil for the short period of three weeks. One week, one city. The selection of the sites in a country as continental as Brazil was based on their particular historical formation and the consequential modes in which grassroots feminisms have been articulating there.

1. **Rio de Janeiro** is the capital of the state of Rio de Janeiro, located in southeast Brazil. It is the second most populous city, with more than 7 million residents. In the decade of 1730, the port of Rio de Janeiro became the main port of the country, receiving two thirds of all slave-ships coming to Brazil.[93] Moreover, the city was the only case in modern history in which the Monarchy established the Empire inside the colony. Due to the invasion of Napoleonic troops, the Portuguese royal family decided to escape Lisbon and move to Rio de Janeiro in 1808. The creation of a pluricontinental Lusitanian Empire in the city involved the move of all the embassies and consulates from Portugal to the colony. As a result, Rio de Janeiro became a cross-Atlantic destination of European diplomats and visitors.[94]

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[91] The research problematizes the statement of the United States feminist Catharine MacKinnon who announced at the Vienna Human Rights Forum that she "represented the women of Bosnia." Different from that, the analysis joins Spivak, Butler and Mohanty in recognizing it as highly problematic to treat marginalized people "as if they were voiceless and to appoint oneself as the voice of the disenfranchised." Cf. Butler, *Undoing Gender* at 228-9. Spivak, *Can the Subaltern Speak?* Mohanty, 'Under Western Eyes: Feminist Scholarship and Colonial Discourses'.

[92] Stephen, *Women and Social Movements in Latin America. Power from Below* at 284-5.

[93] Manolo Florentino, Alexandre Vieira Ribeiro, and Daniel Domingues Da Silva, 'Aspectos Comparativos do Tráfico de Africanos para o Brasil (Séculos XVIII E XIX)', *Afro-Ásia* 31 (2004), 83-126 at 87.

[94] See André Barreto Campello, *Manual Jurídico da Escravidão: Império do Brasil* (Jundiaí, São Paulo: Paco, 2018) at 74-88. Richard Miskolci, *O Desejo Da Nação: Masculinidade e Branquitude No Brasil De Fins Do XIX* (São Paulo: Annablume, 2013) at 21.

2. **Salvador** is the capital of the state of Bahia, located in northeast Brazil. It was the first capital of Brazil and one of the first colonial cities in the region, founded in 1549. From 1678 to 1830, the city received almost 30% of all the slavery ships arriving to Brazil. Together with Rio de Janeiro, the two cities received almost one third of all slavery ships coming to the Americas.[95] Salvador in particular and the Bahia in general were crucial territories of slave revolts as well as crucial sites for the formation of an Afro-Bahian heritage expressed in various domains of life such as the religious *terreiros* of Candomblé (fostered by the influx from the Bight of Benin, the Yoruba-based candomblé stems), the practice of *capoeira*, the food of *Orixás acarajé* and *abará*, etc. Salvador today has the largest proportion of black people in the country which represents the largest African-population city outside of Africa. In 2011, it was declared the black capital of Latin America.[96]

3. **Manaus** is the capital of the state of Amazon located in the north of Brazil, in the middle of the rainforest. The city was founded in 1669 and today is the most populous city with more than 2 million inhabitants, in the state of Amazon. Manaus is the only city in the Amazons with a higher percentage of women than men (51,18%).[97]

My journey started in Rio de Janeiro, moved on to Salvador, then to Manaus and, finally, ended up back in Rio. On a spatial level, the three cities epitomize the neocolonial architecture of contrasting divisions between center and periphery. There, the periphery is not necessarily located in the suburbs encircling the city center, but is also in the inner city, permeating it (slums). Despite the possible differences between "*favelas*" (slums) and "*periferias*" (periphery), this work adopts the term "periphery" to address both of them.

The conversations took place during May and June of 2018, rainy winter in Rio de Janeiro and Salvador, and the beginning of the tropical summer in Manaus. Regarding the political context, the conversations took place prior to the national elections (October)

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[95] Florentino, Ribeiro, and Silva, 'Aspectos Comparativos Do Tráfico De Africanos Para O Brasil (Séculos XVIII e XIX)', at 83. ibid., at 97.

[96] Jornal Nacional, 'Salvador (Ba) É Declarada a Capital Negra Da América Latina', *G1,* 19.11.2011 2011. More, see Reis and Klein, 'Slavery in Brazil', at 194. Butler, 'From Black History to Diasporan History: Brazilian Abolition in Afro-Atlantic Context', at 132. Luis Nicolau Parés, *A Formação Do Candomblé: História E Ritual Da Nação Jeje Na Bahia* (Campinas, São Paulo: Editora da Unicamp, 2007). Patrícia De Santana Pinho, Reinvenções Da África Na Bahia (São Paulo: Annablume, 2004). Pierre Verger, Fluxo E Refluxo Do Tráfico De Escravos Entre O Golfo De Benin E a Baía De Todos Os Santos Dos Séc. XVIII a XIX (São Paulo: Ed. Corrupio, 1987).

[97] Vivian Silva Lima Marangoni et al., 'Panorama Das Condições Femininas No Amazonas: Do Período Colonial Ao Século XX', *Interfaces Científicas - Humanas e Sociais, Aracaju,* 6/1 (2017), 21-32 at 23.

that would elect the far-right candidate, Jair Bolsonaro, as president as well as the first black transwoman (Erica Malunguinho and Erika Hilton for the State Congress of São Paulo, and Robeyoncé Lima for the State Congress of Pernambuco) and indigenous woman (Joênia Wapichana for the National Senate) for legislative chairs.

(b) Selection

Before going back to Brazil, I mapped and contacted a broad range of grassroots movements that were mostly non-institutionalized and had a focus on women. This investigation was based on a "purposive strategy".[98] Different from random selection, my strategy carries the purpose of listening to various perspectives from marginalized women engaged in activism and grassroots' movements.

The list encompassed movements working with:

i)   gender-based violence involving domestic violence and LGBTQI+ people;

ii)   sexuality and health care, especially concerned with LGBTQI+ people, sex workers, and women with HIV;

iii)   working class regarding classist and trade union movements, as well as initiatives of solidarity economy;

iv)   the articulation of race and ethnicity encompassing both indigenous leadership and black women's organizations.

I wrote them emails and posted messages and received almost no response. I changed my strategy and redid the format and content of the messages, but still nothing. As result, the fieldwork started with one single meeting arranged in each city and a large expectation of finding and approaching them in their local associations and by their phone numbers. Along the very intense three weeks, I went to associations, cafés, restaurants, universities, private residences, lectures, slams, protests, *multirão*, theater plays, *terreiro*, art interventions, birthday dinners, *festa junina*. I mostly moved by foot, subway, train, car, and, of course, airplane between the cities. In the end, I met and spoke with women that are engaged, in one way or another, with 31 different organizations in Brazil (see *Table 1*).

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[98] Ruth Frankenberg, *White Women, Race Matters: The Social Construction of Whiteness* (Minnesota: University of Minnesota Press, 1993) at 23.

Table 1 – Organizations and Cities

1.	Casa das Mulheres da Maré	Rio de Janeiro
2.	Coletivo Nuvem Negra	Rio de Janeiro
3.	Subcomissão da Verdade na Democracia Mães de Acari, Comissão de Direitos Humanos, Assembleia Legislativa do Rio de Janeiro (SVD/ALERJ)	Rio de Janeiro
4.	Coletivo Madame Satã	Rio de Janeiro
5.	Oitiva Feminista	Niterói
6.	Rede Nacional de Feministas Antiproibicionistas do Movimento pela Legalização da Maconha (MLM)	Rio de Janeiro
7.	Movimento de Mulheres Indígena Guarani Nhandewa	Rio de Janeiro
8.	Mecanismo Estadual de Prevenção e Combate à Tortura (MEPCT/RJ)	Rio de Janeiro
9.	Organização da Marcha das Vadias	Salvador
10.	TamoJuntas	Salvador
11.	Grupo de Apoio à Prevenção à Aids (GAPA)	Salvador
12.	Teto	Salvador
13.	Public Defender	Salvador
14.	Movimento Novas Felipas	Ilha Vera Cruz de Itaparica
15.	Associação das Baianas do Acarajé	Salvador
16.	Associação Nacional de Ação Indigenista	Salvador
17.	Coletivo Feminista Classista Ana Montenegro	Salvador
18.	Rede Nacional de Lésbicas e Bissexuais Negras para Promoção em Saúde e Controle Social de Políticas Públicas (Rede Sapatà)	Salvador
19.	Coletivo Lesbibahia	Salvador
20.	Ginga Movimento de Mulheres do Subúrbio	Salvador
21.	Associação Orquídeas GLBT	Manaus
22.	Associação de Travestis, Transexuais, Transgêneros do Estado do Amazonas (ASSOTRAM)	Manaus
23.	Instituto Mana	Manaus
24.	Coletivo Feminista partidAmazonas	Manaus
25.	Associação de Prostitutas do Amazonas (APAM)	Manaus
26.	Comunidade Indígena Karapãna	Manaus
27.	Associações das Mulheres Indígenas do Alto Rio Negro (AMARN)	Manaus
28.	Coletivo Difusão	Manaus
29.	Coletivo Yukaka	Manaus
30.	Coletivo Rosa Zumbi, Partido Socialismo e Liberdade (PSOL)	Manaus
31.	Movimento de Mulheres Solidarias do Amazonas (MUSA)	Manaus

(c) Conversation

The traditional methodology of social research generally defines an interview as a mechanical instrument of data-collection and a conversation in which one person asks the questions and the other gives the answers. Additionally, it characterizes interviewees as essentially passive individuals and the interviewers as objective and impersonal question-makers.[99]

In *Interviewing women: a contradiction in terms* (1981), Ann Oakley challenges the traditional manner of interviews in her own practice of interviewing women. The author proposes three major turns to the classic method. First, in lieu of a purely exploitative attitude that frames interviewees as sources of data, it is necessary to adopt a more humane, sensible and inter-relational approach in conducting interviews. In this way, the interviewer role is profoundly transformed "from being a data-collecting instrument for researchers to being a data-collecting instrument for those whose lives are being researched."[100] Second, she points out the potential of the interview to become a tool for providing greater visibility to women's personal conditions in society. That is to say, interviewing women can be a powerful strategy for documenting the narrative accounts of women that have been heretofore historically dismissed. Third, Oakley insists on the importance of taking into consideration the interviewee's definition of the interview. In other words, instead of making the interviewee answer a pre-made list of questions, the interviewer should listen out for which issues and questions are relevant to the interviewee.

In *White Women, Race Matters: The Social Construction of Whiteness* (1993), Ruth Frankenberg also problematizes the academic traditional definition of the interviewer as distant, neutral and objective. As a counter to this, she proposes a dialogic approach in which the researcher is positioned "as explicitly involved in the questions, at times sharing with interviewees either information about my own life or elements of my own analysis of racism as it developed through the research process."[101]

Similarly, in more recent research, *Feminists Organising against Gendered Violence* (2007), Lesley Mcmillan shares how her experience in conducting fieldwork interviews with women demanded another strategy than the one conventionally outlined in methodological manuals. In Mcmillan's words:

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[99] Oakley, 'Interviewing Women: A Contradiction in Terms', at 36-37.
[100] Ibid., at 48-49.
[101] More, see Frankenberg, *White Women, Race Matters: The Social Construction of Whiteness* at 30-1.

Ideas of objectivity and detachment are not compatible with my feminist politics. We are all affected by our place in the world and our life experiences and thus cannot enter the research process as a 'blank slate'. […] Nor is a rejection of objectivity an excuse for poor social science scholarship and lack of systematic inquiry. My experience as a woman and as a feminist researcher means I am starkly aware of the fear of violence in women's lives and the way in which women are encouraged to curtail their activities or behaviour in order to avoid it, with the implication that those who do not manage to avoid it have somehow 'failed' to curtail their behaviour appropriately.[102]

In my fieldwork experience, I opted to be open, personal and clear about my research, activism and personal positionality to all the women I contacted. Moreover, I frame our interactions as "conversations" rather than interviews in order to emphasize my dialogical approach. This means, as in a regular conversation, they should feel comfortable to speak what they believed to be relevant for them and to make questions to me along our encounter. Some of them asked me about my position on some polemical discussions in Brazil (e.g. racial quotas and social privileges) or even more personal inquiries regarding my sexual orientation and my activism.

Furthermore, I did not adopt a fixed questionnaire for my conversations. I opted for a "careful listening" approach in which I initially asked them to introduce themselves and tell me how they got engaged with activism, especially in terms of feminism. Such a broad and personal question was motivated by the idea of creating the grounds for them to share with me their personal trajectory, daily struggles and what the very notion of feminism meant for them.

Just as the sociologist Janet Finch remarked regarding her experience of doing interviews, I found that the particular issues that the participants shared with me would not have been expressed in a formal questionnaire model, nor if I, as an interviewer, was presenting myself as an 'unbiased' researcher from a university.[103] Finally, I concur with Lesley McMillan, when she states that:

It is this approach to interviewing that has informed my own practice. Had the exchange not been so open then the sharing of personal experiences would not have occurred very often, allowing me less insight into women's experiences and denying me the chance to reflect upon the emotional impact of encountering stories of violence. personal experience of violence - On all occasions women's experiences were shared voluntarily and not asked about directly.[104]

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[102] Lesley Mcmillan, *Feminists Organising against Gendered Violence* (New York: Palgrave MacMillan, 2007) at 169.

[103] Janet Finch, '"It's Great to Have Someone to Talk To": The Ethics and Politics of Interviewing Women', in C. Bell and H. Roberts (eds.), *Social Researching: Politics, Problems, Practice* (London: Routledge and Kegan Paul, 1984) at 77.

[104] Mcmillan, *Feminists Organising against Gendered Violence* at 170. Oakley, 'Interviewing Women: A Contradiction in Terms', at 52.

That is to say, most participants would not engage in this research if I was following the 'neutrality and objectivity' approach. At the end of three weeks, I was able to meet and listen to 35 grassroots' activists from various backgrounds and self-identifications (*See Table 2*).

Last but not least, the decision about whether or not to identify the participants by name was not an easy one. After acknowledging that one of them was already in a precarious situation and had to take political asylum in another country, the decision to not mentioning their names was motivated by the concern for their safety in Brazil today.

Table 2 - Participants (based on a self-identification form)*

n.	Race/Ethnicity				Gender			Sexuality			Class		
	black	indigenous	white	N/A	F	M	N/A	Homo	Bi	Hetero	Low	Mid	Upper
1			X		X					X			X
2	X				X					X	X		
3	X				X					X		X	
4			X		X				X				X
5	X	X			X		trans*		X			X	
6			X		X				X			X	
7				non-white	X					X		X	
8		X		Guarani 105	X								
9			X		X				X			X	
10	X				X				X			X	
11	X				X				X			X	
12	X				X					X	X		
13	X				X				X			X	
14	X				X					X			X
15	X				X					X	X		
16	X				X					X		X	
17	X				X					X		X	
18				*parda106*	X					X		X	
19	n/a	n/a	n/a	n/a	X				X			X	
20	X				X			X				X	
21	X				X					X	X		
22	n/a	n/a	n/a	n/a		X			X			X	
23	X				X		trans*			X	X		
24	X	X			X					X		X	
25	X				X					X		X	
26			X		X					X		X	
27			X		X				X			X	
28		X		Karapanã 107	X					X	X		
29	X				X					X	X		
30		X		Tucano108	X			n/a	n/a	n/a	X		
31	X				X					X		X	
32		X		Kukama 109	X					X	X		
33	X	X			X					X		X	
34		X			X					X	X		
35	X				X					X	X		

* Abbreviations: female (f), male (m), transgender or travesti (trans); homossexual/lesbian (homo), bisexual (bi), heterosexual (hetero); poor- or low- socioeconomic-class (low), lower-middle- or middle-class (mid), middle-upper- and upper-class (upper). None of the alternatives (N/A).

105 Guarani is an indigenous ethnicity located in Bolivia, Paraguay, Argentina, Uruguay and the central southern of Brazil.

106 "*Parda*" is a term used to designate the mixture of black and white parentage, with a lighter tone of skin.

107 Karapanã is an indigenous ethnicity mostly located in the northwestern Amazon.

108 Tucano is an indigenous ethnicity located in the northwest of the Brazilian Amazons.

109 Kukama is an indigenous ethnicity located in the provinces of Alto Amazons, Requena and Loreto.

"I don't want to hear how he beat her after the earthquake,

tore up her writing, threw the kerosene

lantern into her face waiting

like an unbearable mirror of his own.   I don't

want to hear how she finally ran from the trailer

how he tore the keys from her hands, jumped into the truck

and backed it into her.   I don't want to think

how her guesses betrayed her—that he meant well, that she

was really the stronger and ought not to leave him

to his own apparent devastation.   I don't want to know

wreckage, dreck and waste, but these are the materials

and so are the slow lift of the moon's belly

over wreckage, dreck, and waste, wild treefrogs calling in

another season, light and music still pouring over"

<div align="right">Adrienne Rich[ii]</div>

chapter ~~minus~~ one

Violence and Law: Naming, Counting, Moving

The technology of silence
The rituals, etiquette
the blurring of terms
silence not absence
of words or music or even
raw sounds
Silence can be a plan
rigorously executed
the blueprint to a life
It is a presence
it has a history   a form
Do not confuse it
with any kind of absence

<div align="right">Adrienne Rich[iii]</div>

Each of us is here now because in one way or another we share a commitment to language and to the power of language, and to the reclaiming of that language which has been made to work against us. In the transformation of silence into language and action, it is vitally necessary for each one of us to establish or examine her function in that transformation and to recognize her role as vital within that transformation. And where the words of women are crying to be heard, we must each of us recognize our responsibility to seek those words out, to read them and share them and examine them in their pertinence to our lives. That we not hide behind the mockeries of separations that have been imposed upon us and which so often we accept as our own. The fact that we are here and that I speak these words is an attempt to break that silence and bridge some of those differences between us, for it is not difference which immobilizes us, but silence. And there are so many silences to be broken.

<div align="right">Audre Lorde[iv]</div>

Whatever is unnamed, undepicted in images, whatever is omitted from biography, censored in collections of letters, whatever is misnamed as something else, made difficult-to-come-by, whatever is buried in the memory by the collapse of meaning under an inadequate or lying language – this will become, not merely unspoken, but *unspeakable.*

<div align="right">Adrienne Rich[v]</div>

The dominant scholarship on violence commonly sees the issue only in terms of military combat statistics, drug conflicts, abuse of power by the police, and armed assault. Regarding the context of urban crime, Latin American and the Caribbean have been considered the most violent regions in the world.[110]

The single country of Brazil achieved the historic mark of 65,602 murders in 2017, a rate higher than that of all other countries in South America combined, and thirty times higher than the entire European Union (28 countries). I repeat, thirty times higher.[111] Indeed, the proportion of violent deaths during the last decade in Brazil exceeds even that of well-known international conflicts and wars.[112]

A connection between violence, gender and race can be made by taking into consideration the fact that more than 92% of these homicides are committed against man, and 99.3% of all police killings are directed against male bodies, mainly black and young.[113] As a consequence of that, most researchers of violence in Brazil have been mainly concerned with urban violence perpetrated by men against men.[114]

However, by excavating the structures of violence that underlie its most evident manifestations, this research brings attention to another facet of violence, the one perpetrated against women. South America has been considered the most dangerous region for being a woman. Despite the fact that gender-based violence is largely

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[110] Cf. R. W. Connell, *Masculinities* (2nd, 2005 edn.; Berkeley, Los Angeles: University of California Press, 1995) at 83. Ana Falú, 'Violence and Discrimination in Cities', in Ana Falú (ed.), *Women in the City: On Violence and Rights* (Santiago de Chile: Women and habitat network of Latin America/ Ediciones SUR, 2010) at 20.

[111] Cf. IPEA and FBSP, 'Atlas da Violência 2019', (Brasil: Instituto de Pesquisa Economica Aplicada (IPEA) and Forum Brasileiro de Segurança Pública (FBSP), 2019) at 5, IPEA and FBSP, 'Atlas da Violência 2018', in Daniel Cerqueira (ed.), (Rio de Janeiro: Instituto de Pesquisa Economica Aplicada (IPEA) and Forum Brasileiro de Segurança Pública (FBSP), 2018) at 3.

[112] Cf. OCHA, 'Fragmented Lives. Humanitarian Overview 2014', (Jerusalem: United Nations Office for the Coordination of Humanitarian Affairs occupied Palestinian territory, 2015), SOHR, 'About 475 Thousand Persons Were Killed in 76 Months of the Syrian Revolution and More Than 14 Million Were Wounded and Displaced', <http://www.syriahr.com/en/> (Accessed on 04.10.2019), IBC, 'Iray Body Count. The Public Record of Violent Deaths Following the 2003 Invasion of Iraq', <https://www.iraqbodycount.org>, (Accessed on 04.10.2019).

[113] More, see Juliana Moreira Streva, *Corpo, Raça, Poder: Extermínio Negro No Brasil* (Rio de Janeiro: Editora Multifoco, 2018), FBSP, 'Anuário Brasileiro De Segurança Pública', (Brazil: Fórum Brasileiro de Segurança Pública (FBSP), 2019). FLAUZINA, Ana Luiza Pinheiro. *Nonnegotiable lives: International Criminal Justice and the Denial of Black Genocide in Brazil and the United States.* Doctoral Thesis in Law. Washington, DC: Faculty of the Washington College of Law of American University, 2012.

[114] Connell, *Masculinities* at 257-8. Bell Hooks, *The Will to Change. Men, Masculinity, and Love* (New York, London: Atria Books, 2004b) at 39-40.

unreported, still the cases of murder against women increased 217.6% in Brazil over the last thirty years.[115]

In regard to this fact, the first chapter is named "~~minus~~ one" inspired by the internationally known slogan, "*ni una menos*" (not one [woman] less), which brings the transnational women's claim for survival to the forefront of struggles. The minus one equates the Spanish "*una menos*" in addressing life and death not only as natural events, but as part of the legal and political domains. Hence, it refers to the "politics of extermination" refers to the erasure of bodies, narratives, perspectives, and ways of living that often have been examined in terms of negative numbers. Instead of framing domestic violence as a "'soft' term which suggests it emerges in an intimate context that is private and somehow less threatening or less brutal than the violence that takes place outside the home",[116] this dissertation sees it as a crucial aspect of the politics of extermination.

It was not until the mid-1970s that violence against women began to be addressed as a public issue. Before that, it was mainly framed as a private problem, even justified by calling it a 'defense of (male) honor'. Since the eighties, violence against women have been widely debated in the world in terms of "gender-based violence" as an influence of the gender terminology established in the United States.[117]

In contrast to men, women have mainly been murdered inside their homes by their male partner or ex-partner.[118] The report *Femicide: A Global Issue That Demands Action* (2013) highlights the global level of this pattern of violence:

> In Australia, Canada, Israel, South Africa and the United States between forty and seventy percent of female murder victims were killed by their intimate partner. […] In European countries such as Italy, Spain, Portugal or France, where female homicide rates are fairly

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[115] See Simone Da Silva Ribeiro Gomes, Marcia Rangel Candido, and Talita São Thiago Tanscheit, 'Apresentação Dossiê Feminismos na América Latina: Movimentos Sociais, Estado e Partidos Políticos', *NORUS,* 7/11 (Jan/Jul 2019a), 4-22 at 12. Senado, 'Relatório Final: Situação da Violência Contra a Mulher no Brasil', (Brasília: Comissão Parlamentar Mista de Inquério (CPMI) 2013) at 20.

[116] Cf. bell hooks, *Feminism Is for Everybody. Passionate Politics* (Cambridge, MA: South End Press, 2000) at 62.

[117] In Brazil, the first authors to use the term were Heleieth Saffioti and Sueli Souza de Almeida, in their book "Gender Violence: Power and Impotence" from 1995. Cf. Saffioti, Heleieth I. B. and Almeida, Suely de Souza. *Violência de Gênero: Poder e Impotência.* Rio de Janeiro, Revinter, 1995.). See also Cecília Macdowell Santos and Wânia Pasinato Izumino, 'Violência Contra as Mulheres e Violência de Gênero: Notas Sobre Estudos Feministas No Brasil', *Estudios Interdisciplinarios de América Latina y el Caribe,* 16/1 (2005) at 155-7.

[118] See Consuelo Corradi et al., 'Exploring the Data on Femicide across Europe', in Shalva Weil, Consuelo Corradi, and Marceline Naudi (eds.), *Femicide across Europe. Theory, Research and Prevention* (Bristol: Policy Press, 2018) at 95.

low compared to other non-EU countries, the murder of women by former and current partners accounts for a large proportion of violent deaths among women.[119]

That is to say, the pressing issue of violence against women is not only located in Brazil or Latin America but is part of a transnational social dynamic beyond the so-called 'Global South' or 'Third World'. Across the globe, women experience the most extreme violence against their bodies in the home, a place which is ironically also associated with belonging, rest, intimacy and affection. In fact, the very expression "to feel at home" has actually been a terrain of violence for millions of women, hidden behind the walls of privacy of their houses.[120]

Yet, domestic violence is part of a deeper and more complex issue of violence against women. The boundaries of visibility and invisibility of gender-based violence has often been addressed by using the metaphor of 'the tip of the iceberg' of violence.

Despite the relevance of such a metaphor, this study prefers to rename it as the "front door of violence". This renaming is motivated neither by the pressing environmental collapse and the consequential melting of icebergs, nor due to the distance of such a notion from the tropical scenario of Brazil. The main reason for renaming it is based on the importance of bringing to the forefront the grammar of the house, instead of alluding to the image of an ice island floating in the ocean. The notions of private, domestic, 'behind the walls', are all crucial for the debate, and the metaphor of the 'iceberg' completely fails to evoke any of these factors. Yet, by no means does this new term intend to narrow the concept of gender-based violence to the location of the home. Rather, it plays the role of a metaphoric reference to the borders of the visible and the invisible, the public and the private; the entrance door to the several domains of violence.

In this way, the notion of "front door" appears in the Kafka parable, *Before the Law* (*Vor dem Gesetz*) from 1915, in which, as you might already know, the main character is not allowed by the gatekeeper to pass through the "door of the law".

> the man can stoop to peer through the gateway into the interior. Seeing this, the gate keeper laughs and says: 'If you like, just try to go in despite my veto. But be warned: I am powerful. And I am the meekest of the gate keepers. From hall to hall there is one gate keeper after another, each more powerful than the last. The third gate keeper is already so terrible that even I cannot bear to look at him.' These are difficulties the man from the

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[119] See Claire Laurent, Michael Platzer, and Maria Idomir, 'Femicide: A Global Issue That Demands Action', in Claire Laurent, Michael Platzer, and Maria Idomir (eds.), (Vienna Liaison Office: Academic Council on the United Nations System (ACUNS), 2013) at 6. Corradi et al., 'Exploring the Data on Femicide across Europe', at 94.

[120] More, see Hilary Charlesworth, Christine Chinkin, and Shelley Wright, 'Feminist Approaches to International Law', *The American Journal of International Law,* 85/4 (Oct. 1991), 613-45.

country has not expected; the Law, he thinks, should surely be accessible at all times and to everyone [...].[121]

Without deviating too much from the argument here intended, this parable in which the country man spends everything, waits his entire life, and still does not gain entry through the "door of law", provoked various reflections not only among theorists and philosophers but also lawyers and legal scholars.[122] In this way, Kafka's reference to "door" is also invoked in the conceptualization of the "*front door of violence*" to problematize both the lack of information and the inaccessibility for those standing "before the law".

Moving back to the cartography of violence, this work reads gender-based murders as communicative acts that demand a careful listening. The act of listening refers to paying a careful attention from the shrill scream to the numb silence, which many bodies and narratives have been historically immersed in. As stated by Beatriz Nascimento, "we are the live history of black people, and not numbers".[123] In this respect, this dissertation reads the body not as a dehumanized statistic but as a source of experience, knowledge, and counterstrategies (body-archive) crucial for the analysis of social issues such as violence.[124]

Still regarding the importance of reading violence differently, this analysis perceives law as a discursive field primarily responsible for prescribing the ways modern society can be transformed or should be conserved. The vocabulary of rights is invoked

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[121] Franz Kafka, 'Before the Law ', *The Trial* (New York: Schocken Books, [1915] 1998).

[122] For example, see Jacques Derrida, 'Before the Law,' in Derek Attridge (ed.), *Acts of Literature* (London: Routledge, 1992), Alwin Baum, 'Parable as Paradox in Kafka's Stories,' in Harold Bloom (ed.), *Franz Kafka: Modern Critical Views* (New York: Chelsea, 1986). Elena Loizidou, 'Before the Law, Encounters at the Borderline', in Matthew Stone, Illan Rua Wall, and Costas Douzinas (eds.), *New Critical Legal Thinking. Law and the Political* (London: Birkbeck Law Press, 2012). Victor Fleming, 'Before the Law: An Analysis for the Legal Profession' (1978) 1 UALR L J 324.

[123] Beatriz Nascimento, 'Por Uma História Do Homem Negro', in Alex Ratts (ed.), *Eu Sou Atlântica: Sobre a Trajetória De Vida De Beatriz Nascimento* (São Paulo: Imprensa Oficial do Estado de São Paulo and Instituto Kuanza, 2007a) at 97.

[124] More, see Paula M. L. Moya, 'Postmodernism, "Realism," and the Politics of Identity: Cherríe Moraga and Chicana Feminism', in M. Jacqui Alexander and Chandra Talpade Mohanty (eds.), *Feminist Genealogies, Colonial Legacies, Democratic Futures* (New York, London: Routledge, 1997), Frantz Fanon, *Black Skin, White Masks*, trans. Translated by Richard Philcox (2008 edn.; New York: Grove Press, 1952b). Gloria Anzaldúa, *Borderlands / La Frontera - the New Mestiza* (San Francisco, CA: Aunt Lute Books, 1987).

to dispute the role of law in its activity of naming, publicizing, or ignoring issues required for society to coexist. Therefore, law is here conceived of as a social practice.[125]

Drawing on that, this chapter excavates violence against women by examining the mainstream method of law regarding the terminology of femicide and feminicide; the human rights' discourse; national law; data; and legal practice. In the final part, this chapter reflects on the limitations of adopting the traditional frame of legal analysis and proposes to *move below* it.

Naming Violence

The term "homicide" is commonly considered to be a general and neutral term to use for the murder of a person. Nevertheless, its etymological root derives from the Latin term "*homo/homin*" that refers to the murder of a man. In this sense, the notion reproduces the common generalization of man as a universal human being that is neutral and non-gendered.

In reaction to that, some feminist scholars and activists decided to avoid the use of such a term, replacing it with the existing neutral terms of "murder" and "killing".[126] Yet, as previously mentioned the problem of female extermination had remained unnamed in the general vocabulary, since the notion of violence has been mainly focused on male extermination.

As Djamila Ribeiro notes, "we cannot fight what we cannot name."[127] In other words, to establish a specific word to designate the killing of women was considered an important step toward making the action not only known but also *speakable* as a public problem. "An aspect of the silencing of stories of violence for some then is the failure to

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[125] More, see Rita Segato, 'Femigenocidio Como Crimen En El Fuero Internacional De Los Derechos Humanos', *La Guerra Contra Las Mujeres* (Madrid: Traficantes de Sueños, 2016b) at 127-8. Fabiana Cristina Severi, *Lei Maria da Penha e o Projeto Jurídico Feminista Brasileiro* (Rio de Janeiro: Lumen Juris, 2018) at 36-7, 76-7, Adele M. Morrison, 'Changing the Domestic Violence (Dis)Course: Moving from White Victim to Multi-Cultural Survivor', *University of California, Davis,* 39 (2006), 1061-120 at 1099, Isabel Cristina Jaramillo, 'La Crítica Feminista Al Derecho', in Robin West (ed.), *Género Y Teoría Del Derecho* (Bogotá: Siglo de Hombres Editores, Facultad de Derecho de la Universidad de Los Andes, Ediciones Uníandes, Instituto Pensar, 2000), 27-66 at 103-4.

[126] See Jacquelyn Campbell, '"If I Can't Have You, No One Can": Power and Control in Homicide of Female Partners', in Diana Russell and Jill Radford (eds.), *Femicide. The Politics of Woman Killing* (New York, Toronto, Oxford: Twayne Publishers, Maxwell Macmillan International, 1992) at 99, Patsilí Toledo Vásquez, 'Feminicidio', (Mexico: Oficina en México del Alto Comisionado de las Naciones Unidas para los Derechos Humanos (OACNUDH), 2009) at 24.

[127] Cf. Djamila Ribeiro, *Quem Tem Medo Do Feminismo Negro?* (1 edn.; São Paulo: Companhia das Letras, 2018a) at 19.

find in language a way to truly convey the experience and the feelings surrounding it to others", argues Lesley Mcmillan in her research on *Feminists Organising against Gendered Violence*.[128] It is in this context of *unspeakability* that the terminologies of "femicide" and "feminicide" were created with the political aim to disrupt sexism and misogynist violence that exterminates women worldwide.[129]

The terms femicide or feminicide remain without a common definition within scholarly debates and legal discourses.[130] As an attempt to examine both concepts, the following section traces their two main theoretical definitions. Firstly, the definition of femicide coined by Diana Russell. Secondly, the Latin American conceptualization of feminicide carried out by Marcela Lagarde.

Femicide

The term femicide was employed for the first time at the International Tribunal on Crimes against Women held in Brussels in 1976. When speaking about misogynist murder of women and girls by men, the co-organizer of the Tribunal, Diana Russell, coined the term:

> The names of those who I have read out [17 women who had been murdered in the San Francisco Bay] to you today will soon be obliterated. No demonstrations have accompanied them to the grave, no protests rocked the city, no leaflets were passed out, and no committees were formed. But today we have remembered them. And tomorrow we must act to stop *femicide*![131]

Afterwards, Russell situated "femicide" within the long need of creating an alternative term to homicide. Based on the fact that the vast majority of murders against women have been motivated by misogyny, the scholar stresses the necessity of specifically

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[128] See Lesley Mcmillan, *Feminists Organising against Gendered Violence* (New York: Palgrave MacMillan, 2007) at 176-7.

[129] See Laurent, Platzer, and Idomir, 'Femicide: A Global Issue That Demands Action'.

[130] See Corradi et al., 'Exploring the Data on Femicide across Europe', at 155.

[131] According to Russell, she had first heard the term femicide with an acquaintance in 1974 when mentioning that American writer Carol Orlock was preparing an anthology on femicide. "Although her book was never published and I had no idea how she had defined this new word, it resonated powerfully with me as one that might refer to the killing of women by men *because* they are women". See Diana Russell, 'Preface', in Diana Russell and Jill Radford (eds.), *Femicide. The Politics of Woman Killing* (New York, Toronto, Oxford: Twayne Publishers, Maxwell Macmillan International, 1992) at xiv.

targeting it.[132] Accordingly, naming an injustice is an important step toward making the issue visible and therefore fostering articulations against it. The author states that:

> Just as U.S. Professor Catharine MacKinnon's invention of the new feminist term *sexual harassment* was necessary before laws against these crimes could be formulated, so I believed that inventing a new term for sexist/misogynist killings of females was necessary for feminists to start organizing to combat these heretofore neglected lethal forms of violence against women and girls.[133]

Later in the 1990s, Russell further conceptualized the notion in two main works. At the paper *Femicide: Sexist Terrorism against Women* (1992) written with Jane Caputi, femicide was defined as the violent female murder inserted in a continuum of violence.[134] In the same year, she and Jill Radford co-edited the book *Femicide: The Politics of Woman Killing*, where they defined femicide as "the misogynist killing of women by men".[135]

Regarding both works, the concept was extended beyond the definition of direct murder to also include indirect forms of murder resulting from misogynous attitudes or social practices. Additionally, the definition of femicide engaged with the various ways of experiencing womanhood in terms of "racist femicide, homophobic femicide, lesbicide",[136] to which I would also add the femicide against transgender or *travesti* women, as well as those based on the articulations of gender, ability, class and religious elements.

All in all, femicide is not a new form of violence, but a sociolegal label created to designate the extreme manifestation of violence against women. Since the 1990s, research on femicide has consolidated a trend in criminology and feminist studies in Latin America, the United States and Australia, with a more recent development occurring in Europe.

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[132] More, see Laurent, Platzer, and Idomir, 'Femicide: A Global Issue That Demands Action', at 19. Instituto Patrícia Galvão, 'Femicídio #Invisibilidademata', in Débora Prado and Marisa Sanematsu (eds.), (São Paulo: Fundação Rosa Luxemburgo, 2017) at 7.

[133] Cf. Diana Russell, 'The Origin and Importance of the Term Femicide', [Website], <https://www.dianarussell.com/origin_of_femicide.html>, (Accessed on 12.09.2019).

[134] Cf. Diana Russell and Jane Caputi, 'Femicide: Sexist Terrorism against Women', in Diana Russell and Jill Radford (eds.), *The Politics of Woman Killing* (New York: Twayne Publishers, 1992).

[135] Cf. Diana Russell and Jill Radford, *Femicide. The Politics of Woman Killing* (New York, Toronto, Oxford: Twayne Publishers, Maxwell Macmillan International, 1992).

[136] Jill Radford, 'Introduction', in Diana Russell and Jill Radford (eds.), *Femicide. The Politics of Woman Killing* (New York, Toronto, Oxford: Twayne Publishers, Maxwell Macmillan International, 1992) at 7.

Latin America is the region where the term has been most used, legislated and translated, both as *femicidio* (femicide) and *feminicidio* (feminicide).[137]

Feminicide

For years, Latin American activists have been battling against the unnamed systematic crime of murder against women. More than half of the 25 countries in the world with the highest rates of femicide are located in the region.[138] Inspired by the conceptualization of Diana Russell, the Mexican anthropologist Marcela Lagarde coined the word *feminicidio* (feminicide) in 1992.

The new term coined by Lagarde emphasizes the articulations between gender and other categories such as race, class, sexuality, and religion. According to the author, feminicide is the most extreme form of gender-based violence, which includes a set of misogynistic aggressions against women. [139]

This larger frame of domestic aggressions is often called a "cycle of violence" or a "continuum of violence". It refers to a wide spectrum of violence, ranging from the initial menace; emotional manipulations and abusive behavior; physical and psychological aggression; and culminates in the feminicide murder itself. Thus, in both cases, the terms "continuum" and "cycle" emphasize how violence is a permanent process. In the same direction, at the Intergovernmental Meeting on Gender-related Killing of Women and Girls in 2014, the Special Rapporteur on Violence against Women from the UNOHC, Rashida Manjoo, recognized that the "killings are not isolated incidents that arise suddenly

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[137] More, see Corradi et al., 'Exploring the Data on Femicide across Europe'. Laurent, Platzer, and Idomir, 'Femicide: A Global Issue That Demands Action', at 19, Vásquez, 'Feminicidio', at 23. Corradi et al., 'Exploring the Data on Femicide across Europe', at 93. Ana Isabel Garita Vílchez, 'La Regulación del Delito de Femicidio/Feminicidio en América Latina y El Caribe', in Consultoría de la Campaña del Secretario General De Las Naciones Unidas Únete Para Poner Fin a La Violencia Contra Las Mujeres (ed.), (Ciudad de Panamá: UN Women, AECID, PNUD) at 15. Committee of Experts of the Follow-up Mechanism to the Belém Do Pará Convention - MESECVI, 'Declaración Sobre El Femicídio', (Ser.L/II.7.10 MESECVI/CEVI/DEC; Washington, D.C. : OAS, 2008) at 3. Stela Nazareth Meneguel and Vania Naomi Hirakata, 'Femicides: Female Homicide in Brazil', *Revista Saúde Pública,* 45/3 (2011) at 1.

[138] Laurent, Platzer, and Idomir, 'Femicide: A Global Issue That Demands Action', at 50.

[139] Marcela Lagarde y De Los Ríos, 'Antropología, Feminismo y Política: Violencia Feminicida y Derechos Humanos De Las Mujeres', in Margaret Louise Bullen and María Carmen Díez Mintegui (eds.), *Retos Teoricos y Nuevas Praticas* (España: Ankulegi, 2008) at 217.

and unexpectedly but are rather the ultimate act of violence which is experienced in a continuum of violence".[140]

More specifically, Lagarde argues that feminicide is the murder of women in the social context of the silence, omission, negligence, or even connivance of the state's authorities. It therefore constitutes an avoidable crime for which the State is responsible due to inability to formulate adequate measures of accountability, protection, reparation and prevention.[141]

Despite the permission of translating the term, Russell disagrees with the definition proposed by Lagarde based on four reasons: i) it is based on the notion of impunity, which implies that in cases in which the perpetrators are arrested, the crime would no longer be classified as feminicide; ii) impunity is not always the case with femicides, therefore should not be a key feature for its global definition; iii) the term feminicide would resemble, for the author, the "oppressive concept *femininity*"; iv) conflicts between those who adopted the term feminicide and those who have adopted the term femicide, divide a movement that should be working together to combat the same misogynist murders of females in Latin America.[142]

Moving away from the academic dispute over who coined the concept, this work adopts the vocabulary of feminicide because it is the most frequently used term in the context of Latin America. Moreover, outside of academia, the two terms have been used interchangeably to refer to the murder of women based on gender.[143]

Speaking Human Rights

In examining the act of naming and speaking on violence, the discourse of human rights has been considered the "common language of humanity" through which all

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[140] Rashida Manjoo, 'Introduction into the Different Forms of Femicides', in Claire Laurent, Michael Platzer, and Maria Idomir (eds.), *Femicide: A Global Issue That Demands Action* (Vienna Liaison Office: Academic Council on the United Nations System (ACUNS), 2013) at 55.

[141] Cf. Ríos, 'Antropología, Feminismo y Política: Violencia Feminicida y Derechos Humanos De Las Mujeres', at 235, ibid., at 216-7, Ríos and Roberts, 'Preface: Feminist Keys for Understanding Feminicide: Theoretical, Political, and Legal Construction', at xv, Ríos, 'Antropología, Feminismo y Política: Violencia Feminicida y Derechos Humanos De Las Mujeres'. More, see MESECVI, 'Declaración Sobre El Femicídio', at 3-4. Rosa-Linda Fregoso and Cynthia Bejarano, 'Introduction: A Cartography of Femicide in the Américas', in Rosa-Linda Fregoso and Cynthia Bejarano (eds.), *Terrorizing Women. Feminicide in the Américas* (Durham and London: Duke University Press, 2010) at 5. Vílchez, 'La Regulación Del Delito De Femicidio/Feminicidio En América Latina Y El Caribe', at 16.

[142] Russell, 'The Origin and Importance of the Term Femicide',

[143] Cf. Segato, 'Femigenocidio Como Crimen En El Fuero Internacional De Los Derechos Humanos', at 142, 48.

pressing problems can be verbalized.[144] Moreover, the legal scholar Balakrishnan Rajagopal noted how "no other discourse, except perhaps anticolonial nationalism, has had such a stranglehold on both the imagination of progressive intellectuals as well as mass mobilization in the Third World."[145] This fact highlights the relevance of developing an analysis based on Latin America, and more specifically Brazil.

Historically, international law was concerned with inter-state conflicts in terms of war and peace. Only later, especially after the Second World War, did the discourse of human rights became a central part of the international law agenda.[146] This change was followed by an opening up of the definition of violence from that of war to other types of interpersonal violations, although it should be noted that it was initially focused exclusively on state violations within the public sphere. Thus, the traditional discourse of human rights was concerned with protecting individuals from state-sanctioned violence and abuse. Such a framework left aside the violence committed in the private sphere where most violations against women actually take place. Thus, "the classification of human rights is more than just a semantics problem because it has practical policy consequences".[147]

On that account, many feminists started to mobilize the discourse of human rights as a promising strategy for transnational advocacy, based on the notion of "women's rights as human rights."[148] International conferences played an important role in the transnational debates on violence against women. In 1975, the first World Conference on

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[144] More, see Boaventura de Sousa Santos, If God were a Human Rights Activist: Human Rights and the Challenge of Political Theologies, 2009 LAW SOC. JUST. & GLOBAL DEV. 1, 26. José-Manuel Barreto. "Epistemologies of the South and Human Rights: Santos and the Quest for Global and Cognitive Justice". In: *Indiana Journal of Global Legal Studies,* Vol. 21, 2014. Margaret A. Maclaren, 'Decolonizing Rights: Transnational Feminism and "Women's Rights as Human Rights"', in Margaret A. Mclaren (ed.), *Decolonizing Feminism: Transnational Feminism and Globalization* (London and New York: Rowman & Littlefield International, 2017) at 149.

[145] Cf. Balakrishnan Rajagopal, *International Law from Below. Development, Social Movements, and Third World Resistance* (Cambridge: Cambridge University Press 2003a) at 171-2. In this respect, Samuel Moyn stresses that the anticolonial struggle should not be confused with a human rights' movement. Cf. Samuel Moyn, *The Last Utopia. Human Rights in History* (Cambridge, Massachusetts, London: The Belknap Press of Harvard University Press, 2010) at Chapter 3.

[146] See Helmut Philipp Aust, 'From Diplomat to Academic Activist: André Mandelstam and the History of Human Rights', *European Journal of International Law,* 25/4 (November 2014), 1105–21. Rita Segato, 'Patriarchy from Margin to Center: Discipline, Territoriality, and Cruelty in the Apocalyptic Phase of Capital', *South Atlantic Quarterly, Duke University Press,* /115:3 (2016a), 615-24 at 623.

[147] Charlotte Bunch, 'Women's Rights as Human Rights: Toward a Re-Vision of Human Rights', *Human Rights Quarterly,* 12/4 (1990), 486-98 at 492. Maclaren, 'Decolonizing Rights: Transnational Feminism and "Women's Rights as Human Rights"', at 150-1. Rajagopal, *International Law from Below. Development, Social Movements, and Third World Resistance* at 202. Bunch, 'Women's Rights as Human Rights: Toward a Re-Vision of Human Rights', at 486.

[148] More, see Maclaren, 'Decolonizing Rights: Transnational Feminism and "Women's Rights as Human Rights"', at 149. Patricia Viseur Sellers, 'Gender Strategy Is Not Luxury for International Courts Symposium: Prosecuting Sexual and Gender-Based Crimes before International/Ized Criminal Courts', *Journal of Gender, Social Policy & the Law,* 17/2 (2009).

Women took place in Mexico City and marked a milestone in the international articulation of women, and resulted in the World Plan of Action and the United Nations Decade for Women (1975–1985). In 1980, another international conference on women was held in Copenhagen, followed by the Third World Conference on Women held in Nairobi (1985).[149]

These three world conferences are examples of women's activism around the world fostering avenues for the following international conferences in the 1990s on women's rights: the Human Rights Conference in Vienna (1993); International Conference on Population and Development in Cairo (1994); the Fourth World Conference on Women in Beijing (1995), which inspired a pre-conference in Mar del Plata where black women from 16 countries from Latin America and the Caribbean convened together.[150]

Regarding the importance of the discourse of human rights on the issue, this section maps the 20 major mechanisms, declarations, conventions, comments and decisions on gender-based violence within the international human rights system, especially considering the Latin American context.

"Women's Rights as Human Rights"

1. Established in the early part of 1928, the Inter-American Commission of Women (CIM) was the first inter-governmental agency committed to full citizenship for women worldwide and was situated within the Organization of American States (OAS).[151]

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[149] UN, 'Women's Rights Are Human Rights', (New York and Geneva: United Nations Human Rights Office of the High Commissioner 2014).

[150] More, see Platforms for Action and commitments emerging from the United Nations Conferences, including the following: the UN Conference on Environment and Development (ECO-92 – Rio de Janeiro, 1992), the Second UN Conference on Human Settlements (Habitat II – Istanbul, 1996), the Worldwide Declaration on Women in Local Government (1998) of the International Union of Local Authorities (IULA), the Declaration of the Founding Congress of 'United Cities and Local Governments' (Paris, 2004), the International Charter for Women's Right to the City, developed by the Women and Habitat Network of Latin America, and other instruments such as the 'European Charter for Women in the City' (1995) and the 'Montreal Declaration on Women's Safety' (2002).

[151] The Organization of American States was a continental organization created in 1948 through the signature of the OAS Charter, in Bogota, and has the purpose of creating bonds among the fellow states "to achieve an order of peace and justice, to promote their solidarity, to strengthen their collaboration, and to defend their sovereignty, their territorial integrity, and their independence" (the Charter of the OAS, Chapter 1, Art 1, 1967). Fregoso and Bejarano, 'Introduction: A Cartography of Femicide in the Américas', at 18.

2. A year after the creation of the United Nations (UN), the Commission on the Status of Women (CSW) was established in 1946. Based on the Economic and Social Council's (ECOSOC) resolution 11(II), the CSW consists of a global body dedicated to promoting "gender equality and the empowerment of women." It also became responsible for monitoring and reviewing the implementation of the Beijing Declaration and the Platform for Action (1995), as well as for mainstreaming a gender perspective in the UN activities.

3. In 1967, the UN issued the Declaration on the Elimination of Discrimination against Women, which considers discrimination against women as an offence against human dignity and outlines the State's responsibility to "abolish existing laws, customs, regulations and practices which are discriminatory against women, and to establish adequate legal protection for equal rights of men and women."[152] Yet, the declaration does not refer in any moment to the issue of violence.

4. Still addressing only the arena of discrimination, the UN adopted the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) in 1979, which came into force in 1981. The CEDAW has been considered responsible for inaugurating a new area of international human rights' law focused on women. Initially, the international debates were mainly concerned with the topic of discrimination against women (article 1, CEDAW) toward which the CEDAW Convention contributed to the expansion of the notion to include both public and private acts, perpetrated by any person, organization or enterprise (article 2, e).[153]

5. Based on the article 17 of CEDAW, the Committee on the Elimination of Discrimination against Women (CEDAW Committee) was formed in 1981. It holds the mandate, in parallel to the mandate of the other treaty bodies for their respective HR treaty stating three main tasks: i) to receive individual or group cases violations; ii) to produce reports on systematic or grave violations of women's rights; and iii) to formulate general recommendations. Regarding the latter attribution, the Committee has so far produced two General Recommendations (n. 12 and n. 19) exclusively focused on "violence against women", an issue that was conspicuously absent from the original treaty.

6. The General Recommendation number 12 stresses the obligation of the member State to include in its periodic reports information on: i) legislation to protect

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[152] OHCHR, 'Declaration on the Elimination of Discrimination against Women', in Proclaimed by the General Assembly (ed.), (Resolution 2263 (XXII), A/RES/22/2263, 7 November 1967: United Nations Human Rights Office of the High Commissioner (OHCHR), 1967).

[153] UN, 'Convention for the Elimination of All Forms of Discrimination against Women (CEDAW)', in United Nations General Assembly (ed.), (Resolution 34/180 New York: United Nations 1979).

women against incidences of any kind of violence in everyday life; ii) measures and services adopted to eradicate violence against women; and iii) statistical data on the issue (1989).[154]

7. In 1992, the General Recommendation number 19 points out that the reports produced by the States parties have failed to recognize the connection between discrimination against women, gender-based violence,[155] and violations of human rights. In this way, the CEDAW Committee suggests the introduction of "gender-based violence" into the definition of discrimination against women. It highlights "family violence" as one of the most insidious forms of violence against women, prevalent in all societies, connecting economic dependence with violent relationships (par. 23).

Since 1992, the CEDAW Committee maintains that, in cases of violation of women's rights, States can be internationally responsible for the acts of individuals "if they did not adopt measures with due diligence to prevent the violation of rights or to investigate and punish acts of violence and compensate the victims."[156] This new concept of due diligence influenced the subsequent declarations and conventions.[157] Since the CEDAW recommendations, violence was finally introduced as an international legal problem and the UN sustained this position in the subsequent resolutions and reports regarding violence against women.[158]

8. In 1985, the Nairobi Forward-looking Strategies for the Advancement of Women (FLS) was adopted at the Third World Conference on Women, as part of the Decade for Women: Equality, Development and Peace.[159] The extensive document with

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[154] Committee CEDAW, 'General Recommendation N. 12: Violence against Women', (United Nations, Committee on the Elimination of Discrimination Against Women, 1989).

[155] Defined at the General Comment as "violence that is directed against a woman because she is a woman or that affects women disproportionately" (par. 6).

[156] Committee CEDAW, 'General Recommendation N. 19: Violence against Women', (United Nations, Committee on the Elimination of Discrimination Against Women 1992).

[157] For example, the United Nations Declaration on the Elimination of Violence against Women (1993), the Beijing Platform for Action (1994), the Belém do Pará Convention (1994) and the Istanbul Convention (2011).

[158] Between 2013 and 2019, the UN General Assembly produced a sum of 811 documents concerned with violence against women, in which 259 were reports and 193 resolutions and decisions, and 1,667 documents presented gender violence, with 522 reports and 316 resolutions and decisions. Regarding the UN's Human Rights Bodies, they have published a total of 1,396 documents focused on violence against women and 2,025 on gender violence. See at UN Digital Library, digitallibrary.un.org/search (Accessed on 9.12.2019). Considering specifically the UN Women, the organ published four intergovernmental resolutions, three intergovernmental opinions, three papers, two cases studies, two manuals, as well as papers, brochures and statistics focused on the topic "Ending violence against women and girls"; and on "domestic violence", the organ published two research papers, two cases studies, one intergovernmental report, one manual and one assessment. See at UN Women, UN System Coordination Library, <www.unwomen.org/en/how-we-work/un-system-coordination/library> (Accessed on 9.12.2019).

[159] Cf. UN, 'Nairobi Forward-Looking Strategies for the Advancement of Women', in United Nations (ed.), *A/CONF.116/28/Rev.* (Nairobi, 1985).

strategies to combat violence against women was adopted with consensus among all governments.

9. In the context of the World Conference of Human Rights and the Vienna Declaration and Programme of Action, the General Assembly proclaimed in the 85th plenary meeting the Declaration on the Elimination of Violence against Women (DEVAW) from 1993, the first international declaration of women's rights to exclusively address the issue of violence. The DEVAW has the legal status of soft law, which means that it has a non-binding nature and therefore the States cannot be held responsible for its violation. Still, the declaration resonated internationally by conceptualizing violence against women as "any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life" (article 1).[160]

10. One year after the DEVAW, the Inter-American Human Rights System (IAHRS), part of the OAS, published the first international convention on violence, the Convention on the Prevention, Punishment and Eradication of Violence against Women (CPPEVW or Belém do Pará Convention) in 1994. Different from the previous UN system's non-binding declaration and general recommendations, the Belém do Pará Convention is a legally binding instrument in which member States can be internationally responsible for human rights' violation.[161]

11. Regarding the African System of Human Rights, in addition to the general prohibition on sexist discrimination established by the African (Banjul) Charter on Human and Peoples Rights (1981), the special Protocol on the Rights of Women in Africa (Maputo Protocol) was established in 2013. Inspired by the existing international human rights' standards,[162] the Maputo Protocol addresses the challenges faced by women and girls in the African context. After its establishment, several African countries have

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[160] UN, 'Declaration on the Elimination of Violence against Women', in General Assembly of United Nations (ed.), (Resolution 48/104 of 20 December 1993 United Nations, 1993).

[161] OAS, 'Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women (Convention of Belém Do Pará)', in OAS (ed.), (Belém do Pará, Brazil: OAS, 1994).

[162] For example, CEDAW, the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Universal Declaration of Human Rights (UDHR), Belém do Pará Convention.

transformed laws, policies and other institutional mechanisms at a national level in respect to women's human rights. [163]

In distinction to the CEDAW Committee and the IACHR, who possess the mandate for monitoring, making comments, reports and for deciding cases with a friendly agreement, the international courts such as the European Court of Human Rights (ECHR) and the Inter-American Commission on Human Rights (IACHR) have the judicial mandate to declare the international responsibility of a state member for human rights' violations.[164] Facing the intensive proliferation of violence against women, Latin America and the Caribbean have been considered to be the vanguard in the elaboration of legal, judicial and political responses to such violence.[165] The analysis here focuses on two leading cases of the IAHRS: *Maria da Penha Case v. Brazil*, case n° 12.051 decided by IACHR in 2001; and *González et al. ("Cotton Field") v. Mexico*, sentenced by the IACtHR in 2009.

12. The landmark case *Maria da Penha Case v. Brazil* (2001) was the first case to apply the Belém do Pará Convention in the context of domestic violence. The case refers to the continual cycle of violence faced by Maria da Penha, for fifteen years, from her husband. Despite several denounces to the state officials, Brazil did not adopt any adequate measures to prevent, investigate, process or punish the violence. As a result, Da Penha suffered two murder attempts by her husband, one when she was shot in the back while asleep, and the other when she was posteriorly electrocuted in the bath. She survived with irreversible paraplegia, among other serious damage to her health. After 15 years of the crimes, no final decision was made by the national courts. The IACHR recognized

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[163] For more information, see OAU, 'African Charter on Human and Peoples Rights', in Organization of African Unity (OAU) (ed.), (Nairobi, 1981). OAU, 'Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol)', in Organization of African Unity (ed.), (Maputo, 2003). Scholastica Omondi, Esther Waweru, and Divya Srinivasan, 'Breathing Life into the Maputo Protocol: Jurisprudence on the Rights of Women and Girls in Africa', (Nairobi, Kenya: Equality Now, 2018). WGDD, 'Maputo Protocol on Women's Rights: A Living Document for Women's Human Rights in Africa', (The report was given as part of a presentation on the "State of Ratification of the Maputo Protocol" during the AU Ministerial Consultation. The meeting was held on the 18th of March 2016, on the margins of the 60th Session of the United Nations Commission on the Status of Women (CSW), in New York, USA.: The Women, Gender and Development Directorate (WGDD) of the African Union Commission, 2016).

[164] Cf. OAS, 'Statute of the Inter-American Court of Human Rights', in General Assembly of the Organization of the American States (ed.), (La Paz, 1979a). OAS, 'American Convention on Human Rights', in Organization of the American States (ed.), (Adopted at the Inter-American Specialized Conference on Human Rights, San José, Costa Rica, 22 November 1969, 1969) at article 64. OAS, 'Statute of the Inter-American Commission on Human Rights', in General Assembly of the Organization of the American States (ed.), (La Paz, 1979b). Ce, 'European Convention on Human Rights (Convention for the Protection of Human Rights and Fundamental Freedoms)', in Council of Europe (CE) (ed.), (Rome, 1950) at Section II, Un, 'Convention for the Elimination of All Forms of Discrimination against Women (CEDAW)', at Part V, article 17.

[165] Laurent, Platzer, and Idomir, 'Femicide: A Global Issue That Demands Action', at 92.

the international responsibility of Brazil for acting with negligence and omission of gender-based violence.[166] The IACHR highlighted that:

> The State has adopted a number of measures intended to reduce the scope of domestic violence and tolerance by the State thereof, although these measures have not yet had a significant impact on the pattern of State tolerance of violence against women, in particular as a result of ineffective police and judicial action in Brazil.[167]

13. The second leading case became famously known as *Campo Algodonero* (Cotton Field), the *González et al. v. Mexico* (2009), and was decided by the Inter-American Court. The disappearance and extermination of women has been a repeated and systematic practice in the bordertown of Ciudad Juárez, Mexico. After the disappearance, rape, and killing of three women, Claudia Ivette González, Laura Berenice Ramos Monárrez, Esmeralda Herrera Monreal, two workers and one student respectively, their families, represented by human rights' organizations, submitted the case to the Court.

The context of violence in Juarez was characterized by two main features: stereotypes of gender and the incorporation of women into the workforce. The preference for hiring women at the maquila industries enabled women to become financially independent and therefore impacted sexist social roles. In other words, women becoming the main family provider challenged the basis of patriarchal society and its male control over property and bodies.[168] In its judgment, the Court summarized the facts of the case as follows:

> The report of the IACHR Rapporteur underscores that, although Ciudad Juárez has been characterized by a significant increase in crimes against women and men (supra para. 108), several aspects of the increase are "anomalous" with regard to women because: (i) murders of women increased significantly in 1993; (ii) the coefficients for murders of women doubled compared to those for men, and (iii) the homicide rate for women in Ciudad Juárez is disproportionately higher than that for other border cities with similar characteristics.[169]

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[166] Violation of the rights and obligations established at the article 7 of Belém do Pará Convention, in connection with the articles 1.1, 8 and 25 of the ACHR. Cf. Inter-American Commission on Human Rights - IACHR, 'Maria Da Penha Maia Fernandes v. Brasil', (OAS, Inter-American Commission on Human Rights, 2001), at par. 60.

[167] Inter-American Commission on Human Rights - IACHR, 'Maria Da Penha Maia Fernandes v. Brasil', (OAS, Inter-American Commission on Human Rights, 2001), at par. 60.3.

[168] Cf. Inter-American Court of Human Rights - IACtHR, 'Case of González Et Al. ("Cotton Field") V. Mexico', (Costa Rica: OAS, Inter-American Court of Human Rights, 2009) at 129, 34. More, see United Nations, Report on Mexico produced by the Committee on the Elimination of Discrimination against Women under Article 8 of the Optional Protocol of the Convention, and reply from the Government of Mexico, CEDAW/C/2005/OP.8/MEXICO, 27 January 2005 (case file of attachments to the application, volume VII, attachment 3b, folio 1921). IACHR, The Situation of the Rights of Women in Ciudad Juárez, supra note 64, folio 1766 (citing the letter of the Secretary of Government of Chihuahua to the Special Rapporteur of February 11, 2002).

[169] Ibid., at par. 117.

Diverse reports establish the following common factors in several of the murders: the women were abducted and kept in captivity, their next of kin reported their disappearance and, after days or months, their bodies were found on empty lots with signs of violence, including rape and other types of sexual abuse, torture and mutilation. [170]

Despite the structural violence against women, the mothers of the three women testified to how the authorities suggested to them that their daughter was "out with her boyfriend," and "that, if anything happened to her, it was because she was looking for it, because a good girl, a good woman, stays at home."[171] In other words, the reasoning reinforced the structures of violence by blaming women for the violence inflicted against them.

In this case, the Court established an important precedent regarding the responsibility to prevent. Accordingly, there are two core moments for analyzing this obligation: i) one, prior to the disappearance of the victims; and ii) before the discovery of their bodies. Concerning the first moment, the failure to prevent violence does not automatically result in the State's international responsibility. Despite the general situation of risk for women, the Court considered that the State's acknowledgement of the real and imminent danger for the victims needs to be demonstrated. In the second moment, in which the families report the disappearances to the authorities, the State necessarily becomes aware of the "real and imminent risk" of the specific cases. In this moment, the State is in charge of the "obligation of strict due diligence" concerning the obligations to conduct rigorous and exhaustive search operations during the first hours and days. The Court stressed the importance that "police authorities, prosecutors and judicial officials take prompt immediate action."[172]

Moreover, the Court consolidated its jurisdiction to not only interpret but also to recognize the international state's responsibility for violating the provisions of the Belém

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[170] Ibid., at par. 125.
[171] Ibid., at par. 154, 98-200.
[172] Ibid., at par. 281-3.

do Pará Convention.[173] The decision definitely became a milestone on violence against women, however, it still presented constrains in the use of the term feminicide.

Despite the adoption of the terminology of feminicide by the IACHR in 2007, the release of the Declaration on Femicide by the CIM in 2008, the expert's comment presented by Lagarde in the case, the statement made by the victim's representatives, and the use of the term by the State of Mexico, the Court still decided to use the terminology "gender-based murders of women."[174]

14. Yet, the above-mentioned Declaration on Femicide (2008) recognizes femicide as the most serious form of discrimination and violence against women in Latin America and the Caribbean. Based on that, the States are recommended to promulgate laws and to strengthen the existing legislation for the empowerment of women, their rights and freedom, as well as the improvement of the criminal investigation system and the protection of women affected by violence.[175]

15. In 2011, the Council of Europe adopted the Convention on Preventing and Combating Violence against Women and Domestic Violence, also known as the Istanbul Convention. Its scope concerns with all forms of violence against women, "including domestic violence, which affects women disproportionately."[176] It defines: i) violence against women as "a violation of human rights and a form of discrimination against women and shall mean all acts of gender-based violence that result in, or are likely to result in, physical, sexual, psychological or economic harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life"; ii) domestic violence as "all acts of physical, sexual, psychological or economic violence that occur within the family or domestic unit or

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[173] Even though the IACtHR had already considered its jurisdiction over the Belém do Pará Convention on a previous case – *Miguel Castro Castro Prison v. Peru* (2006) –, the *Campo Algodonero*'s sentence presented a large and crucial discussion on the issue, since the article 12 of the Convention only mentioned the competence of the IACHR to analyze the violation of the international obligations prescribed at the article 7. Through a teleological interpretation of the procedures established by the IAHRS in which the Court can only analyze cases submitted by the Commission, the Court consolidated its competence *rationae materiae* over the Convention. See Part 1 – "Contentious jurisdiction of the Court concerning Article 7 of the Convention of Belém do Pará" of the Sentence ibid. In this respect, the IACtHR considered that the State violated the mentioned Convention, article 7 (b and c), in relation to the rights to life, personal integrity and personal liberty of the American Convention (articles 4(1), 5(1), 5(2) and 7(1) combined with 1.1). Ibid., at par. 286.

[174] Inter-American Commission on Human Rights - IACHR, 'Acceso a La Justicia e Inclusión Social: El Camino Hacia El Fortalecimiento De La Democracia En Bolivia', (OAS, Inter-American Commission on Human Rights, 2007) at par. 319. IACtHR, 'Case of González Et Al. ("Cotton Field") v. Mexico', at par. 138, 43.

[175] IACtHR, 'Case of González Et Al. ("Cotton Field") V. Mexico', at 143. More, see MESECVI, 'Declaración Sobre El Femicídio'.

[176] EC, 'Convention on Preventing and Combating Violence against Women and Domestic Violence', in Council of Europe (EC) (ed.), (No. 210; Istanbul, 2011).

between former or current spouses or partners, whether or not the perpetrator shares or has shared the same residence with the victim"; iii) gender-based violence against women as "violence that is directed against a woman because she is a woman or that affects women disproportionately" (article 3).

16. Moreover, the category of woman necessarily resonates with several other identity classifications, such as race, gender, sexuality, class, ableism, etc. With respect to the articulation of gender with race, the Committee on the Elimination of Racial Discrimination (CERD), in its General Recommendation n. 25 (2000), addressed gender-related dimensions of racial discrimination stating that:

> racial discrimination does not always affect women and men equally or in the same way. There are circumstances in which racial discrimination only or primarily affects women, or affects women in a different way, or to a different degree than men. Such racial discrimination will often escape detection if there is no explicit recognition or acknowledgement of the different life experiences of women and men, in areas of both public and private life.[177]

17. In a complementary manner, the CEDAW Committee, in its General Recommendation n. 25 from 2004, emphasized that State parties should address multiple discrimination against women by adopting temporary special measures. More specifically, the Convention on Indigenous and Tribal Peoples' Rights (Convention 169) states that the established rights should be applied "without discrimination to male and female members of theses peoples."[178] In recent years, reports on the specificities of human rights for indigenous women and black women have been produced.[179]

18. Concerning the articulation of sexual orientation and gender identity, a group of experts from dozens of countries independently released the Yogyakarta Principles on the Application of Human Rights Law in Relation to Sexual Orientation and Gender Identity (2006). They were complemented in 2017 regarding State Obligations on the Application of International Human Rights Law in Relation to Sexual Orientation, Gender Identity, Gender Expression and Sex Characteristics Principles.[180] This was the

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[177] CERD, 'General Recommendation N. 25 on Gender-Related Dimensions of Racial Discrimination', (Committee on the Elimination of Racial Discrimination (CERD), United Nations, 2000).

[178] ILO, 'Indigenous and Tribal Peoples Convention', in International Labour Organization (ILO) (ed.), (Convention 169, 1989) at article 3.1.

[179] Cf. IACHR, 'Indigenous Women and Their Human Rights in the Americas', (OAS, IACHR, 2017). ECLAC, 'Afrodescendent Women in Latin America and the Caribbean', (ECLAC, UN, 2018).

[180] Cf. Group of International Human Rights Experts, 'Yogyakarta Principles on the Application of Human Rights Law in Relation to Sexual Orientation and Gender Identity', in Group of International Human Rights Experts (ed.), (Yogyakarta, 2006). Group of International Human Rights Experts, 'Additional Principles and State Obligations on the Application of International Human Rights Law in Relation to Sexual Orientation, Gender Identity, Gender Expression and Sex Characteristics to Complement the Yogyakarta Principles', in Group of International Human Rights Experts (ed.), (Yogyakarta, 2017).

first relevant international document on the theme and was not produced by any official human rights institutions, which demonstrates the level of resistance to engaging with LGBTQIA+ agenda by international law.

19. Pressed by social mobilizations, human rights have been slowly contemplating the issue. In 2011, the UN released the first resolution on LGBT rights as well as the first study documenting violations of human rights against LGBT people worldwide; and in 2015 and 2018 the IAHRS published regional reports on violence and the challenges for the recognition of the rights of LGBTQIA+ persons in the Americas.[181]

20. Last but not least, after a long resistance, the International Labor Organization (ILO) tackled the historical issue of domestic work in 2010 and 2011. As a result of the International Labor Conference, the ILO established Convention 189 on Domestic Workers (2011) and finally emphasized the major impact of domestic work on women and girls and the continual invisibility and undervaluation of such labor.[182]

Some considerations

All in all, violence perpetrated in the private sphere was gradually inserted into the international agenda of human rights as a result of women's activism. The recognition of human rights violations, from the public to the private spheres, symbolizes a major disruption in the long-standing binary division between public and private in which traditional liberal theory has been grounded. It reshaped the conceptual underpinning of human rights theory by including violations: committed in the private sphere; by

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[181] The abbreviations (LGBT, LGBTI) were mentioned as used by the international institutions. In this respect, the investigation adopts the most inclusive umbrella terminology LGBTQIA+. Cf. Natalie E. Serra, 'Queering International Human Rights: LGBT Access to Domestic Violence Remedies', *American University Journal of Gender Social Policy and Law,* 21/3 (2013), 583-607 at 598. IACHR, 'Advances and Challenges Towards the Recognition of the Rights of LGBTI Persons in the Americas', (Washington: OAS, 2018), IACHR, 'Violence against Lesbian, Gay, Bisexual, Trans and Intersex Persons in the Americas', (Washington: OAS, 2015).
[182] ILO, 'Convention 189 on Domestic Workers', in ILO (ed.), (Geneva, 2011).

individuals; and endorsed by cultural and social norms. Indeed, it demonstrates the strategic use of human rights discourse in challenging political and legal traditions.[183]

However, the human rights' discourse produced various legal categories that have been positioned as neutral, universal and objective, and not as a result of political debates and social disputes. As argued by Sundhya Pahuja, "to make this claim [of universality] successfully, as law cuts, or defines, it must erase its very gesture. This erasure makes the categories formed appear natural, true or objective."[184]

The above described erasure dismisses, in this way, the ineluctable contribution of popular, grassroots resistance to the making of modern international law. "This contrasts with traditional accounts of the birth of international institutions that emphasize the role of leading individuals, or states, or simply functional needs that propelled institutional behavior", as notes Rajagopal.[185] The legal scholar exposes the functionalist explanation of international institutions based on the idea that international institutions emerged "as a result of a pragmatic necessity to serve concrete functions relating, for example, to trade, postal services, or regulation of rivers." In his words:

> This explanation has remained theoretically dominant in international affairs for over fifty years. The central proposition of this theory is that institutions are born and expand due to top–down policy decisions that correlate with the functional needs of international society. This theory does not recognize grassroots groups, individuals, or social movements as agents of institutional transformation or international legal history.[186]

As a result, leading textbooks on human-rights law have been focused primarily on the pronouncements of intergovernmental bodies, without considering seriously the role played by social movements, as well as the role of law and courts in those movements.

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[183] More, see Ana Falú, 'Violence and Discrimination in Cities', in Ana Falú (ed.), *Women in the City: On Violence and Rights* (Santiago de Chile: Women and habitat network of Latin America/ Ediciones SUR, 2010) at 22. Maclaren, 'Decolonizing Rights: Transnational Feminism and "Women's Rights as Human Rights"', at 152. Patsilí Toledo Vásquez, 'Feminicidio', (México: Consultoría para la Oficina en México del Alto Comisionado de las Naciones Unidas para los Derechos Humanos, 2009) at 37, Rajagopal, *International Law from Below. Development, Social Movements, and Third World Resistance* at 194. Un, 'Women's Rights Are Human Rights', at 12. Un, 'Declaration on the Elimination of Violence against Women'. Bunch, 'Women's Rights as Human Rights: Toward a Re-Vision of Human Rights', at 488.

[184] Pahuja, *Decolonising International Law: Development, Economic Growth and the Politics of Universality* at 27.

[185] Rajagopal, *International Law from Below. Development, Social Movements, and Third World Resistance* at 187.

[186] Ibid., at 41-2.

In other words, the international law has remained apart from the literature on social movements.[187]

The refusal of the Inter-American Court to incorporate the term of femicide/feminicide, as well as the international resistance to *queer* the human rights' agenda,[188] are examples of the ongoing disputes of the meanings regarding international justice and law.

From Global to Local: National Law

When looking back even just a few decades, the dearth of existing domestic violence laws becomes glaringly obvious. As stated by the legal scholar Adele Morrison, "the language of the discourse before the 1970s, if there were any words at all about the issue of violence in the home, may have been only whispers between the closest of female friends who changed the subject if the topic came up in public."[189]

Not only international but also national law has been perceived as a crucial instrument for social change, guaranteeing and expanding rights, combating discrimination and punishing violence. Despite the constant omission of the political disputes in the making of law, it took more than forty years of feminist worldwide struggle

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[187] Recently, research into social movements, particularly those known as 'new social movements' has become the main theme of social theory. According to Rajagopal, this field of study can be divided into two main strands. The first one is known as "Resource Mobilization theory" and concerns strategy, participation, organization, rationality, etc. This strand has been predominantly located in the Anglo-Saxon world. The second school of thought is called the "New Social Movements Approach" and is based on the cultural and symbolic aspects of identity formations as central to collective mobilizations. It has been mainly embraced by Europe, Latin America and South Asia. Cf. Rajagopal, *International Law from Below. Development, Social Movements, and Third World Resistance* at 187. More, see See Maclaren, 'Decolonizing Rights: Transnational Feminism and "Women's Rights as Human Rights"', at 151-3. Bunch, 'Women's Rights as Human Rights: Toward a Re-Vision of Human Rights', at 497. Ochy Curiel, Jules Falquet, and Sabine Masson, 'Editorial: Feminismos Disidentes en América Latina y El Caribe', *Nouvelles Questions Féministes,* 24/n° 2 (2005) at 5-6. Maria Da Glória Gohn, *Novas Teorias Dos Movimentos Sociais* (5, 2014 edn.; São Paulo: Edições Loyola, 2008). Maclaren, 'Decolonizing Rights: Transnational Feminism and "Women's Rights as Human Rights"', at 151-3. Bunch, 'Women's Rights as Human Rights: Toward a Re-Vision of Human Rights', at 497. Curiel, Falquet, and Masson, 'Editorial: Feminismos Disidentes en América Latina y El Caribe', at 5-6.

[188] More, see Serra, 'Queering International Human Rights: LGBT Access to Domestic Violence Remedies'.

[189] Morrison, 'Changing the Domestic Violence (Dis)Course: Moving from White Victim to Multi-Cultural Survivor', at 1073.

for the legal recognition of domestic violence as a public problem.[190] Until the 1970s, Brazil was still in a military-civil dictatorship (1964-1984), and the argument of 'legitimate defense of honor' was accepted in the courts to absolve husbands who murdered their wives in Brazil.[191]

In the transition regime from dictatorship to democracy, the *Conselho Nacional dos Direitos das Mulheres* (Brazilian National Council for Women's Rights or CNDM) was created by the Law n°. 7353/1985. Formed by women from various sectors of feminist movements, CNDM inserted feminism into the institutional sphere of the state.[192] In 1986, they organized a national meeting to influence the legal process for establishing the Brazilian Constitution in 1988. Together, they produced the *Carta das Mulheres aos Constituintes* (Women's Letter to the Constituents) based on six main topics: i) family, ii) labor, iii) health, iv) education and culture, v) violence, and vi) national and international issues. In all of these sections, gender was comprehended in its entanglement with race, sexuality and class. At the conclusion of the CNDM, they presented thirty amendments on women's rights, as an attempt to incorporate the principal demands presented by various strands of feminist movements in the country.

The women's revindication into the constitutional process became known as *Lobby do Batom* (Lipstick Lobby). This term, which I consider a harmful label for reinforcing stereotypes of womanhood and femininity, has been reproduced a critically by the literature. Despite the misguided name, this movement of women succeeded in

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[190] More, see Carmen Hein De Campos and Kelly Gianezini, 'Lei Maria Da Penha: Do Protagonismo Feminista às Resistências Jurídicas', *Revista Juris Poiesis - Rio de Janeiro,* 22/28 (2019), 253-69 at 256. CAMPOS, Carmen Hein de. Razão e Sensibilidade: Teoria Feminista do Direito e Lei Maria da Penha. In: CAMPOS, C. H. (Org.). Lei Maria da Penha comentada em uma perspectiva jurídico-feminista. Rio de Janeiro: Lumen Juris, 2011. p. 1-12. Ríos and Roberts, 'Preface: Feminist Keys for Understanding Feminicide: Theoretical, Political, and Legal Construction', at xxiii-xxiv.

[191] In 1977, the country finally established the right to divorce (Law 6515/1977). Cf. IACHR, 'Maria da Penha Maia Fernandes v. Brasil', at par. 47.

[192] More, see Severi, *Lei Maria da Penha e o Projeto Jurídico Feminista Brasileiro* at 110. Flávia Biroli, *Gênero e Desigualdades: Os Limites da Democracia no Brasil* (São Paulo Boitempo, 2018a) at 181.

getting the approval of most of their proposals (80%) which were then inserted into the Constitutional text (1988).[193]

Further, the democratization process in Brazil was responsible for renewing the interactions between feminists and the state: from the confrontational to a claiming position. Such a transformation can be read within the spectrum of international pressure for the national development of public policies focused on women. A complex net was established between democratization, neoliberalism, the fortification of social movements, and the institutionalization of NGOs with human rights.[194]

Regarding the role of the NGOs, they began to professionally operate as intermediaries between the women's movements and the state, proposing and monitoring policies, a position that has been intensively criticized by Latin American feminist literature.[195] For example, the Bolivian feminist Maria Galindo outlines six major critiques regarding NGOs and the so-called "NGO-ization" of the social movements. Firstly, they

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[193] Some of the approved proposals were: a) equality between men and women, especially within the family; b) the prohibition of discrimination in the labor market on the grounds of sex, age, color or marital status; c) special protection for women in the labor market, through specific incentives; d) the right of imprisoned women to remain with their children during the period of breastfeeding; e) maternity protection as a social right, guaranteeing maternity leave, without prejudice in terms of employment and wages, for 120 days; g) family planning as a free decision of the couple, with the State providing educational and scientific resources for the exercise of this right; and h) the duty of the State to prevent violence in the context of family relations (Cf. Severi, *Lei Maria Da Penha E O Projeto Jurídico Feminista Brasileiro* at 111-4. Sueli Carneiro, 'Mulheres em Movimento', *Revista Estudos Avançados,* 17/49 (2003) at 117). The Democratic Brazilian Constitution of 1988 consecrates the formal equality between men and women, but this legal recognition did not impact, as it should have, the interpretations of civil, family and criminal law in terms of gender. For example, only in 1991, the argument of 'legitimate defense of honor' was jurisprudentially repealed by the Supreme Court, yet many local courts did not change their *modus operandi* and instead continued to address the cases with reluctance and to consider the women's behavior a central point in the prosecution (IACHR, 'Maria da Penha Maia Fernandes v. Brasil', at par. 47.); only in 1995 was the article responsible for limiting the right to complaint of a married woman by the consent of the husband was revoked (Cf. Article 35 of the Code of Criminal Procedure revoked by Law No. 9.520/1995); only in that period that legal debate started to question whether the husband could be an offender of rape against his wife (Cf. IPEA, 'Avaliando a Efetividade Da Lei Maria da Penha', in Daniel Cerqueira et al. (eds.), *2048 Texto para discussão* (Brasília: Instituto de Pesquisa Econômica Aplicada (IPEA), 2015) at 7. Carmen Hein De Campos, 'Lei Maria Da Penha: Fundamentos E Perspectivas', in Isadora Vier Machado (ed.), *Uma Década de Lei Maria da Penha: Percursos, Práticas e Desafios* (Curitiba, Brazil: Editora CRV 2017) at 24.).

[194] See Severi, *Lei Maria Da Penha e o Projeto Jurídico Feminista Brasileiro* at 44-5. ibid., at 107-8. Lúcia Avelar and Patrícia Rangel, 'Como as Mulheres Se Representam na Política? Os Casos De Argentina E Brasil', in Eva Alterman Blay and Lúcia Avelar (eds.), *50 Anos de Feminismo: Argentina, Brasil e Chile. A Construção das Mulheres Como Atores Políticos e Democráticos* (São Paulo: Editora da Universidade de São Paulo, 2017) at 282, Flavia Rios, 'A Cidadania Imaginada Pelas Mulheres Afro-Brasileiras: Da Ditadura Militar à Democracia', ibid. at 250.

[195] See Biroli, *Gênero E Desigualdades: Os Limites Da Democracia No Brasil* at 181. Severi, *Lei Maria Da Penha E O Projeto Jurídico Feminista Brasileiro* at 109-10. Avelar and Rangel, 'Como as Mulheres Se Representam Na Política? Os Casos De Argentina E Brasil', at 269-70. Simone Bohn, 'Feminismo Estatal sob a Presidência Lula: O Caso da Secretaria de Políticas para as Mulheres', Revista Debates, vol. 4, at 81-106. Balakrishnan Rajagopal, 'International Law and Social Movements: Challenges of Theorizing Resistance', *Columbia Journal of Transnatonal Law Association,* 41/Number 2 (2003b), 397-433 at 206, 409. Maria Salet Ferreira Novellino. "As Organizações Não-Governamentais (ONGS) Feministas Brasileiras", em XV Encontro Nacional de Estudos Populacionais, Caxambu, 18-22 set. 2006.

are framed as part of the neocolonial project that connects gender and feminist struggles to the myth of development, and therefore undermine social movements' struggles. Secondly, they claim to represent the voice, the interests and the rights of women without properly engaging in social processes and debates to listen to their voices. Thirdly, the process of NGO-ization has converted social movements in clients. Fourthly, international and regional gatherings and forums labeled as feminist or of indigenous women have been coopted by NGOs, instead of actually fostering social participation. Fifthly, the NGO would have an active role in fragmenting the political subject between isolated, fixed, and closed categories of identity, and in this way, obscuring a common system of oppression. Finally, they have been operating as 'translators' of the social movements' voices and claims, a position that profoundly depoliticizes the political language of struggle. [196]

In this regard, NGOs should not be confused with social movements nor with civil society. Rather, the NGO became an institution managed by experts with the task of monitoring, evaluating and implementing public policies or social projects. [197] Sometimes, they have even been perceived as substitutes or arms of the state, since the state has been one of the main sources of their funding, as noted by Lesley McMillan:

> The dual roles of feminist movement organisations working around violence mean it is necessary to consider the role of the state not only in its capacity as abuser of rights and its potential to alleviate women's oppression, but also in its capacity as the main funding body for the organisations set up by the women's movement as alternative forms of welfare provision for women suffering male violence. [198]

Similar to the changes observed in the human rights section, the transformation of the comprehension of violence against women also took place in the local dimension. That is to say, the gender-based violence, previously comprehended as private, reaches the public domain and becomes regarded as a political issue in Brazil. This dislocation from private to public issue was followed by the creation of several new organizations in the country, such as the *Delegacia Especializada em Atendimento à Mulher* (Women's Police

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[196] Maria Galindo, *No Se Puede Descolonizar Sin Despatriarcalizar. Teoría y Propuesta de La Despatriarcalización* (La Paz, Bolívia: Mujeres Creando, 2013) at 35-8.

[197] More, see Severi, *Lei Maria da Penha e o Projeto Jurídico Feminista Brasileiro* at 110. Avelar and Rangel, 'Como as Mulheres Se Representam na Política? Os Casos de Argentina e Brasil', at 269-70. Simone Bohn, 'Feminismo Estatal sob a Presidência Lula: O Caso da Secretaria de Políticas para as Mulheres', Revista Debates, vol. 4, at 81-106. Rajagopal, 'International Law and Social Movements: Challenges of Theorizing Resistance', at 206, 409. Gohn, *Novas Teorias Dos Movimentos Sociais*.

[198] Mcmillan, *Feminists Organising against Gendered Violence* at 37.

Station or DEAM) and the institutional shelters for the assistance of women living in situations of violence. [199]

In this context, the issue of domestic violence against women became a central issue addressed by women's struggles.[200] In the 1980s, there is a boom in the literature on violence against women as it becomes the main thematic of feminist studies in Brazil. The first researches mainly framed the denunciations of violence against women at police stations with the task of knowing which were the most reported crimes, who were the women who suffered violence and who were the aggressors.[201] Before delving into the practices of these legal discourses, especially regarding the two mentioned organisms (DEAM and shelters), this section outlines the establishment of two legal transformations in Brazil: i) the Maria da Penha Law (11.340/2006); and ii) the Feminicide Law (13.104/2015).

Firstly, the law n. 11.340 from 2006 was promulgated within the political and legal context of international pressure stimulated by the Inter-American Commission on Human Rights' decision of the case Maria da Penha v. Brazil (2001). Yet, it is important to point out that previous to the international decision, feminist organizations had already submitted a legal draft on this issue to the Legislative Branch, as well as pressing the local authorities in this direction. Nevertheless, the institutional response only came after the international case.

The Maria da Penha Law is, therefore, the result of the demand for institutional protection of women in situations of violence, through an integral, transversal and multidisciplinary perspective. It is relevant to mention that the increase of the criminal penalty for domestic violence was not part of the draft submitted by the feminist movements. However, the Secretariat of Politics for the Women of the Presidency of the

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[199] Carneiro, 'Mulheres Em Movimento', at 117.

[200] More, see Cecília Macdowell dos Santos, 'Para Uma Abordagem Interseccional da Lei Maria da Penha', in Isadora Vier Machado (ed.), Uma Década de Lei Maria da Penha: Percursos, Práticas e Desafios (Curitiba, Brazil: Editora CRV 2017) at 48.

[201] See Santos and Izumino, 'Violência Contra as Mulheres e Violência de Gênero: Notas Sobre Estudos Feministas No Brasil', at 147-8. Izumino, Wânia Pasinato. "Delegacias de Defesa da Mulher e Juizados Especiais Criminais: Contribuições para a Consolidação de uma Cidadania de Gênero". Revista Brasileira de Ciências Criminais, Ano 10, n. 40, 2002, at 283.

Republic (SPMPR) sent a different proposal to the National Congress that, after numerous debates and alterations, was approved and sanctioned.[202]

Such a law has been considered one of the most progressive in the world. It provides a set of guidelines regarding the accountability of perpetrators of violence, the protection of women and their families, access to rights and justice, and prevention mechanisms, including school education. It is possible to outline five main innovations presented by it: i) the normative creation of the gender violence category; ii) the redefinition of the term victim; iii) the exclusion of crimes of domestic violence from the list of crimes considered of lesser offensive potential and their consequences; iv) the creation of urgent protective measures; and v) the so-called "integral, intersectoral and interdisciplinary" approach to domestic violence. Despite that, this law did not mention gender-based murder nor its attempt when addressing domestic violence.[203]

2. In the last few years, several countries in Latin America have translated the theoretical and political concepts of feminicide into the juridical language by categorizing it as a crime.[204] So far, eighteen countries have already made legal reforms concerning feminicide: Costa Rica (2007), Guatemala (2008), Chile (2010), El Salvador (2010), Argentina (2012), México (2012), Nicaragua (2012), Bolivia (2013), Honduras (2013), Panamá (2013), Peru (2013), Ecuador (2014), Dominican Republic (2014), Venezuela (2014), Brazil (2015), Colombia (2015), Paraguay (2016) and Uruguay (2017).

In Brazil, the Feminicide Law (13.104/2015) was a result of the report on violence against women produced by the *Comissão Parlamentar Mista de Inquérito* (Joint Parliamentary Committee of Inquiry or CPMI) during the years 2012 and 2013. However, in the final version of the Law, the Brazilian National Congress replaced the word "gender" with

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[202] More, see Campos, 'Lei Maria Da Penha: Fundamentos E Perspectivas', at 27-8. Brasil, 'Diretrizes Nacionais Para Investigar, Processar E Julgar Com Perspectiva De Gênero as Mortes Violentas De Mulheres (Feminicídio)', in Ministério Das Mulheres Presidência Da República, Da Igualdade Racial E Dos Direitos Humanos, Secretária Especial De Políticas Para as Mulheres, (ed.), (Brasília, 2016a). Leila Linhares Barsted, Lei Maria da Penha: uma bem-sucedida experiência de advocacy feminista, in Carmen Hein de Campos (ed.). Lei Maria da Penha comentada em uma perspeciva jurídicofeminista. Rio de Janeiro: Lumen Juris, 2011, at 13-37. Flavia Piovesan; Silvia Pimentel. A Lei Maria da Penha na perspeciva da responsabilidade internacional no Brasil, in Carmen Hein de Campos (ed.). Lei Maria da Penha comentada em uma perspectiva jurídico-feminista. Rio de Janeiro: Lumen Juris, 2011, at 101-117. Unifem, 'O Progresso das Mulheres do Mundo (2008-2009): Quem Responde às Mulheres? Gênero e Responsabilização', (Genebra: United Nations, 2008), Cecilia Maria Bacellar Sardenberg and Miriam Pillar Grossi, 'Balanço Sobre a Lei Maria Da Penha', *Estudos Feministas, Florianópolis, maio-agosto,* 23/2 (2015) at 497.

[203] Campos, 'Lei Maria da Penha: Fundamentos e Perspectivas', at 28-9. Eva Alterman Blay, 'Violência Contra a Mulher: Um Grave Problema Não Solucionado', in Eva Alterman Blay (ed.), Feminismos e Masculinidades: Novos Caminhos Para Enfrentar a Violência Contra a Mulher (São Paulo: Cultura Acadêmica, 2014) at 15.

[204] Segato, *La Guerra Contra Las Mujeres* at 37. Vásquez, 'Feminicidio', at 25. Galvão, 'Femicídio #Invisibilidademata', at 55-6.

"female sex". Thus, the legal text encompassed a very narrow reading of gender-based violence or violence against women exclusively based on the biological organ of the person.[205]

Moreover, the so-called Feminicide Law was actually an addition made to an existing article on aggravated homicide (article 121) from the Penal Code (1940), which inserted feminicide into the list of heinous crimes (par. 2, VI). Therefore, it did not provide any specific public policy for addressing or preventing the issue.

Accordingly, feminicide configurates the killing of woman based on the conditions of having the "female sex". Such conditions are specified in two domains: i) when the crime involves domestic/familiar violence; or ii) is based on the discrimination against the status of women (§2-A, I and II). Moreover, the penalty is raised by one third or even half if the crime was committed: i) against a pregnant woman or one who gave birth within the last three months; ii) against a girl under fourteen, or a woman over sixty years, or a girl or woman with a disability; or iii) in the presence of parents or children of the victim (§7, I-III).

The legislation of feminicide presents at least two main purposes. The first is to give visibility to the dimension and context in which women have been murdered in the country. The classification of feminicide would enable the production of specific data and therefore foster public policies to tackle it. Secondly, the transformation of the discourse of violence against women that has been historically based on legal notions, such as it being a 'crime of passion' or a 'legitimate defence of honour' committed because of 'strong emotions', 'love' and 'jealousy'. These motivations and circumstances were, until that moment, considered as ways to attenuate the criminal penalty of intentional murder against women. In other words, this legal reform attempts to challenge the popular saying "*em briga de marido e mulher ninguém mete a colher*" (in the fight between a wife and a husband, no one should intervene).[206]

In a complementary manner, the country was the first one to adapt the *Latin American Model Protocol for Investigation of Gender-related Killing of Women* (2015) to its social, cultural, political and legal reality. The adaptation resulted in the *Diretrizes Nacionais para Investigar, Processar e Julgar com Perspectiva de Gênero as Mortes Violentas de Mulheres – Feminicídios*

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[205] More, see Carolina Freitas de Oliveira Silva, Marcus Vinicius Spolle, and Amilcar Cardoso Vilaça de Freitas, 'O Feminicídio no México, Costa Rica e Brasil: Algumas Considerações sobre o Tema', *NORUS,* 7/11 (Jan/Jul 2019) at 127. ibid., at 129. Galvão, 'Femicídio #Invisibilidademata', at 12.

[206] Heleieth Saffioti, *O Poder do Macho* (São Paulo: Moderna, 1987) at 80. Galvão, 'Femicídio #Invisibilidademata', at 104. Brasil, 'Diretrizes Nacionais Para Investigar, Processar e Julgar com Perspectiva de Gênero as Mortes Violentas De Mulheres (Feminicídio)', at 24-8.

(Brazilian Guidelines for Investigating, Prosecuting and Judging the Violent Deaths of Women – Feminicides – from a Gender Perspective), which is a document that brings together elements to improve the State's response, and outlines the duties of public authorities and the rights of victims. The goals outlined by the document are: i) to promote a specific investigation and prosecution that takes into consideration the structural inequality of power and rights between men and women in Brazil; ii) to guide public security, health and judicial professionals towards offering appropriate treatment to women survivors and their families; and iii) to improve the techniques and practices of the appropriate institutions so that they become able to properly punish the aggressors and provide assistance to the victims and their families.[207]

Moreover, it encompasses thirteen modalities of feminicide: i) intimate; ii) non-intimate; iii) against children; iv) familiar; v) "for connection" – as a consequence for being in the same place where another woman suffered feminicide or its attempt; vi) "sexual systemic" – previously hijacked, tortured and/or raped; vii) in relation to sex work or stigmatized occupation, such as strippers, waitresses, masseurs or nightclub dancers; viii) in relation to human trafficking; ix) in relation to illegal immigration; x) transphobic; xi) lesbophobic; xii) racist; xiii) in relation to female genital mutilation.[208]

Before the Law: Data, Victimhood, *Acolhimento*

The expected outcome from any legal achievement, especially in the field of human rights, is in the impact on and the reshaping of social dynamics.[209] In this regard, this section investigates the practice of four mechanisms for combating violence against women: statistics, public information, police stations, and institutional shelters. This information will derive from my fieldwork conversations, official databases, human rights' reports and academic research papers on the implementation of legal mechanisms to combat violence against women

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[207] See Unwomen, 'Latin American Model Protocol for Investigation of Gender-Related Killing of Women (Femicide/Feminicide)', (Panamá: UN Women, United Nations Scretary-General's Campaign Unite to End Violence against Women, United Nations Human Rights High Commissioner for Human Rights - Regional Office for Central America, 2015). Brasil, 'Diretrizes Nacionais Para Investigar, Processar e Julgar Com Perspectiva de Gênero as Mortes Violentas de Mulheres (Feminicídio)'.

[208] Cf. Brasil, 'Diretrizes Nacionais Para Investigar, Processar e Julgar com Perspectiva de Gênero as Mortes Violentas De Mulheres (Feminicídio)', at 22.

[209] Morrison, 'Changing the Domestic Violence (Dis)Course: Moving from White Victim to Multi-Cultural Survivor', at 1071. Segato, 'Femigenocidio como Crimen en el Fuero Internacional de los Derechos Humanos', at 128.

Counting Violence

Despite the various international reinforcements of obligation to produce data on violence against women, official statistics on femicide do not exist in most countries in the world.[210] On top of that, the various types of violence against women are often undetected and underreported, a scenario which undermines even further the reliability of numbers.

Nevertheless, despite the international and national law making, femicide has been increasing all over the world as well as in Brazil.[211] According to the report *Atlas da Violência* (2019), the feminicide rate continues to rise each year. In 2015 there were 4.4 women killed per 100,000 inhabitants, in 2016 there were 4.5 and in 2017 the figure rose to 4.7, which means that at least 14,202 women were killed in three years. In other words, from 2007 to 2017, the cases of violent deaths of women increased in 30,7%. Moreover, the rates of lethal violence against LGBTI+ people has also been gradually increasing.[212]

In Brazil, the principal database of femicide is the National Information System on Mortality (SIM) from the Ministry of Health. Despite the legal rulings stating that information on violence against women and femicide should be publicly available, as stated in Maria Penha Law (11.4340/2006), Feminicide Law (13.104/2015), Access to Public Information Law (12.527/11) and Open Data Policy (Decree 8.777/2016), the SIM provides only data on the murder of women in general. This work highlights the risks that the general murder rates presents, since it encompasses a much broader phenomenon of generalized violence than the spectrum of gender-based violence.[213]

The official reports analyzed by this investigation were produced by seven main institutional bodies: i) *Secretaria Nacional de Segurança Pública* (National Secretariat of Public

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[210] Saffioti, *O Poder Do Macho* at 80. Observatório da Mulher contra a Violência, 'Panorama de Violência contra as Mulheres no Brasil. Indicadores Nacionais e Estaduais', (2; Brasília: Senado Federal, 2018) at 5-7, Corradi et al., 'Exploring the Data on Femicide across Europe', at 95. ibid., at 154, WHO, 'Understanding and Addressing Violence against Women. Femicide', (World Health Organization and Pan American Health Organization, 2012). Artigo19, 'Dados Sobre Feminicídio no Brasil #Invisibilidademata', (São Paulo: Artigo19, 2018), Laurent, Platzer, and Idomir, 'Femicide: A Global Issue That Demands Action'. The European Homicide Monitor (EHM); UNODC's Femicide Watches; The World Health Organization (WHO) Corradi et al., 'Exploring the Data on Femicide across Europe', at 96.

[211] Cf. Laurent, Platzer, and Idomir, 'Femicide: A Global Issue That Demands Action', at 6, Russell and Radford, *Femicide. The Politics of Woman Killing* at 77.

[212] IPEA and FBSP, 'Atlas Da Violência 2019', at 6, 32, 41.

[213] IPEA and FBSP, 'Atlas da Violência 2018', at 46-7, IPEA and FBSP, 'Atlas da Violência 2017', (Rio de Janeiro: Instituto de Pesquisa Economica Aplicada (IPEA) and Forum Brasileiro de Segurança Pública (FBSP), 2017) at 36. IPEA, 'Avaliando a Efetividade da Lei Maria da Penha', at 9.

Security);[214] ii) *Instituto de Segurança Pública* (Institute of Public Security/Rio de Janeiro State);[215] iii) *Conselho Nacional de Justiça* (Brazilian National Council of Justice);[216] iv) *Conselho Nacional dos Diretos da Mulher* (National Council of Women's Rights);[217] v) *Secretaria Especial de Direitos Humanos* (Special Secretariat for Human Rights);[218] vi) *Secretaria Nacional de Cidadania do Ministério de Direitos Humanos* (National Secretariat of Citizenship of the Ministry of Human Rights);[219] and vii) *Senado* (Senate).[220]

Most reports are grounded on five main national databases: i) Homicide Register of Women provided by SIM; ii) report of the Calling Service 180 (Center for Assistance to Women in Situations of Violence), provided by the former Secretariat for Women's Policies (SPM/PR) – dismantled and transformed into the Ministry of Woman, Family and Human Rights in 2019; iii) Information System of Notification and Appeals (SINAN), managed by the Ministry of Health; iv) Police Occurrences of Violent Acts against Women (SINESP/MJ), from the Ministry of Justice; and v) the *Disque Direitos Humanos – Disque 100* (Program Dial Human Rights – Dial 100) from the Secretariat of Human Rights of the Presidency of the Republic. Regarding the last database, it is important to highlight that the Dial 100 had the initial scope of violence against children and adolescents and only then was expanded to incorporate several other types of crime concerning: a) elderly people; b) people with disabilities; c) persons under restriction of liberty; d) LGBTQI+ community; e) homeless people; f) ethical or racial discrimination; among others. As a result of the extremely broad frame of the program, it presents critical

[214] Secretaria Nacional de Segurança Pública (SENASP), 'Perfil das Organizações de Segurança Pública. Perfil das Organizações Estaduais e Municipais de Segurança Pública', (Brasília: Ministério da Justiça/SENASP, 2006).

[215] Instituto de Segurança Pública, 'Dossiê Mulher 2016', in Andreia Soares Pinto Orlinda and Cláudia R. De Moraes (eds.), *Série Estudos 2* (11a Versão edn.: Instituto de Segurança Pública 2016).

[216] Cnj, 'O Poder Judiciário na Aplicação da Lei Maria da Penha', (Brasília: Conselho Nacional de Justiça (CNJ), 2018).

[217] Conselho Nacional dos Direitos da Mulher, 'Pesquisa Nacional sobre as Condições de Funcionamento das Delegacias Especializadas no Atendimento às Mulheres: Relatório Final', (Brasília: Conselho Nacional dos Direitos da Mulher, Ministério da Justiça, 2001).

[218] Brasil, 'Relatório De Violência Homofóbica no Brasil: Ano 2013', (Brasília: Secretaria Especial de Direitos Humanos, Ministério das Mulheres, da Igualdade Racial e dos Direitos Humanos, 2016b).

[219] Brasil, 'Violência Lgbtfóbicas no Brasil: Dados da Violência. Ano 2016', in Marcos Vinícius Moura Silva (ed.), (Brasília: Ministério dos Direitos Humanos. Secretaria Nacional de Cidadania, 2018a).

[220] Senado, 'Relatório Final: Situação da Violência contra a Mulher no Brasil'.

problems of delays (up to 50 minutes for a call to be answered) and not even answering 40% of the calls.[221]

The national reports examined by this research mostly present murders against women within the variables of death in terms of gender (women and men), date of registration, municipality, and are mainly crimes perpetrated inside of residences. This means that many other forms of feminicide have been ignored, for instance, the ones executed outside the domestic sphere. Moreover, there is a general scarcity of data on non-lethal violence against women, for example, concerning the attempted cases of feminicide. [222]

In this respect, most official databases do not identify basic characteristics such as race, class, gender identity (regarding the category of cisgender and transgender person) and sexual orientation.[223] As result, the notion of "gender-based" violence has often been reduced to violence against women, and more specifically, violence against cisgender-heterosexual-able women. This narrow reading of gender reinforces the resistance of legal operators to address gender in its actual meaning that includes roles (masculinity and femininity), identity (cisgender, transgender) and, in some cases, sexual orientation (in the sense of relating gay men to feminized bodies and lesbian women to masculinized performativity).[224]

Facing the institutional omission in producing and publicizing information, civil society organizations and NGOs have been gathering and systematizing various sources of data to provide a more accurate picture of violence against women in Brazil. In a complementary manner, this dissertation also analyzed reports made by eleven main organizations: i) *Instituto de Pesquisa Econômica Aplicada* (IPEA);[225] ii) *Fórum Brasileiro de*

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[221] The Dial 100 also includes: vii) trafficking of persons; viii) contemporary slave labour; ix) land and agrarian conflicts; x) housing and urban conflicts; xi) gypsies, *quilombolas*, indigenous and other traditional communities; xii) police violence (including by public security forces in the context of federal intervention in the state of Rio de Janeiro); xiii) communicators and journalists; xiv) migrants and refugees. Cf. Jonas Valente, 'Disque 100: Denúncias De Violação De Direitos De Crianças Caem Em 2018', *AgênciaBrasil,* 14.05.2019, sec. Direitos Humanos. Brasil, 'Relatório de Violência Homofóbica no Brasil: Ano 2013', at 9. Brasil, 'Violência Lgbtfóbicas no Brasil: Dados da Violência. Ano 2016', at 10, ibid., at 62.

[222] IPEA, 'Avaliando a Efetividade da Lei Maria da Penha', at 16, 33, ibid., at 33.

[223] Artigo19, 'Dados Sobre Feminicídio no Brasil #Invisibilidademata', IPEA and FBSP, 'Atlas da Violência 2019', at 56, Artigo19, 'Dados Sobre Feminicídio no Brasil #Invisibilidademata'.

[224] See Campos, 'Lei Maria da Penha: Fundamentos e Perspectivas', at 30. Campos and Gianezini, 'Lei Maria da Penha: Do Protagonismo Feminista às Resistências Jurídicas', at 255.

[225] IPEA and FBSP, 'Atlas da Violência 2017', IPEA and FBSP, 'Atlas da Violência 2018', IPEA and FBSP, 'Atlas Da Violência 2019', IPEA, 'Avaliando a Efetividade da Lei Maria da Penha', IPEA, 'Dossiê Mulheres Negras. Retrato das Condições De Vida das Mulheres Negras no Brasil', in Mariana Mazzini Marcondes et al. (eds.), (Brasília: Instituto de Pesquisa Econômica Aplicada (IPEA), 2013), 160, IPEA, 'Estupro No Brasil: Uma Radiografia sobre os Dados da Saúde', (Brasília: IPEA (Instituto de Pesquisa Econômica Aplicada), 2014).

Segurança Pública (FBSP);[226] iii) *Geledés – Instituto da Mulher Negra*;[227] iv) *Instituto Patrícia Galvão*;[228] v) *Observatório da Mulher contra Violência*;[229] vi) *Artigo 19*;[230] vii) *Criola*;[231] viii) Latin American Social Sciences Institute (FLACSO);[232] ix) *Cidadania, Estudo, Pesquisa, Informação e Ação* (CEPIA);[233] x) *Grupo Gay da Bahia*;[234] and xi) Transgender Europe (TGEU).[235] Drawing on the outlined database, this section analyzes gender-based violence firstly in relation with race, secondly regarding sexual orientation and finally by looking at gender identity in terms of cisgender and transgender categories.

From 2003 to 2013, the amount of murders white women decreased by almost 10 percent.[236] By contrast, the murder rate of black women rose by 54.2 percent during the same period.[237] Comparing the rates of murder in 2016, the murder rate of black women was 71 percent higher than white women.[238] According to the most recent report from 2019, between 2007 to 2017, the murder rate of white women increased by 1.7%, while that of black women increased by 60.5%.[239]

Secondly, after serious misunderstandings and confusions presented by the national report *Violência Homofóbica no Brasil* (2013) regarding gender and sexual

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[226] FBSP, '9° Anuário Brasileiro de Segurança Pública', (São Paulo: FBSP (Fórum Brasileiro de Segurança Pública), 2015), FBSP, 'Anuário Brasileiro de Segurança Pública', IPEA and FBSP, 'Atlas da Violência 2017', IPEA and FBSP, 'Atlas da Violência 2018'.

[227] Geledés, 'Mulheres Negras e Violência Doméstica. Decodificando os Números', in Suelaine Carneiro (ed.), (São Paulo: Geledés Instituto da Mulher Negra, 2017), Geledés and Criola, ' A Situação dos Direitos Humanos das Mulheres Negras no Brasil. Violências e Violações', in Jurema Wernek and Nilza Iraci (eds.), (Brazil: Geledés (Instituto da Mulher Negra) and Criola (Organização de Mulheres Negras), 2017).

[228] Galvão, 'Femicídio #Invisibilidademata'.

[229] Violência, 'Panorama de Violência contra as Mulheres no Brasil. Indicadores Nacionais e Estaduais'.

[230] Artigo19, 'Dados Sobre Feminicídio no Brasil #Invisibilidademata'.

[231] Geledés and Criola, ' A Situação dos Direitos Humanos das Mulheres Negras no Brasil. Violências e Violações '.

[232] Julio Jacobo Waiselfisz, 'Mapa da Violência 2015: Mortes Matadas por Armas de Fogo', (Brasília: FLACSO, 2015b), Julio Jacobo Waiselfisz, 'Mapa da Violência 2015. Homicídio de Mulheres no Brasil', (1 edn.; Brasília: FLACSO, 2015a).

[233] Cepia, 'Acompanhamento e Fortalecimento da Política Nacional De Combate à Violência Contra a Mulher no Estado do Rio De Janeiro', (Rio de Janeiro: Cidadania, Estudo, Pesquisa, Informação e Ação (CEPIA), 2007).

[234] GGB, 'Mortes Violentas de LGBT+ no Brasil. Relatório 2018', in Eduardo Michels, Luiz Mott, and Paulinho (eds.), (Bahia: Grupo Gay Bahia (GGB), 2019).

[235] Tgeu, 'Transrespect versus Transphobia Worldwide. Annual Report 2016. An Introduction to the Trans Murder Monitoring', (14: Transgender Europe (TGEU), 2016).

[236] The category of *mulheres negras* (black women) includes the divided categories of *preta* (black women) and parda (brown women) by the IBGE. Cf. IPEA, 'Dossiê Mulheres Negras. Retrato das Condições de Vida das Mulheres Negras no Brasil', at 19.

[237] Waiselfisz, 'Mapa da Violência 2015: Mortes Matadas por Armas de Fogo', at 13, IPEA and FBSP, 'Atlas da Violência 2017', at 37. Geledés and Criola, ' A Situação dos Direitos Humanos das Mulheres Negras no Brasil. Violências e Violações', at 15.

[238] IPEA and FBSP, 'Atlas Da Violência 2018', at 51.

[239] IPEA and FBSP, 'Atlas Da Violência 2019', at 38.

terminologies,[240] the most recent report *Violência Lgbtfóbicas No Brasil* (2018) finally readdresses the concept of "LGBTphobia" as "the set of anxieties such as anger, disgust, discomfort, fear, horror, contempt and neglect for people who are not included in the rigid definitions tied to heteronormativity and binary gender dialectics." Indeed, it adds that binarism is grounded on "the premise that the masculine and the feminine are poles of ideas that oppose and do not complement each other."[241] Additionally, the *Grupo Gay da Bahia* (GGB) published the report *Mortes Violentas de LGBT+ no Brasil* (2019), reporting that 420 people died in Brazil last year as victims of "homolesbotransphobia": 320 homicides (76%) and 100 suicides (24%).[242] Yet, specific data on violence against lesbian and bisexual women as well as against gay men are still insufficiently provided. This could be examined as a result of the absence of the information on sexual orientation both in police registers and death certificates, which makes the documentation of violence against lesbian, gays and bisexual people an arduous challenge. [243]

Last but not least, the project *Transrespect versus Transphobia Worldwide* conducted by Transgender Europe (TGEU), monitors the human rights situation of transgender people in different parts of the world and collects data on murders from: information submitted by international human rights institutions and material published by the press. According to TGEU research, more trans and *travesti* people are murdered in Brazil than anywhere else in the world.[244] From 2008 to June 2016, 868 trans* people were murdered and 42 percent of them were in Brazil. Between 2008 and 2011, Brazil was responsible for 39.8 percent of the murders of transgender people recorded in the world. Most of them were transwomen.[245] In sum, Brazil is considered the world's deadliest place for

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[240] The report uses the concept of "homophobia" to address all the discrimination and violence faced by trans*people, *travesti*, lesbians, and bisexuals, for example. Moreover, several times the report confuses the notions of gender identity (man, woman, cisgender, transgender) and sexual orientation (heterosexual, lesbian, gay, bisexual). As a result, it produces problematic data that is hard to analyze. For instance, it mentions "the sexual identity of the victims remained mostly uninformed (46.8%), followed by gays (24.5%), *travestis* (11.9%), lesbians (8.6%), transsexuals (5.9%) and bisexuals (2.3%);" however, the categories of *travestis* and transsexuals are not part of sexual identity, but rather a gender identification. That is to say, a transwoman or a transman is also categorized as heterosexual, bisexual or lesbian/gay. Cf. Brasil, 'Relatório De Violência Homofóbica No Brasil: Ano 2013', at 5. ibid., at 17.

[241] Brasil, 'Violência Lgbtfóbicas No Brasil: Dados Da Violência. Ano 2016', at 7.

[242] See GGB, 'Mortes Violentas De Lgbt+ No Brasil. Relatório 2018', at 1.

[243] See IPEA and FBSP, 'Atlas Da Violência 2019', at 56, Brasil, 'Relatório De Violência Homofóbica No Brasil: Ano 2013', at 7-8.

[244] TGEU, 'Transrespect Versus Transphobia Worldwide. Annual Report 2016. An Introduction to the Trans Murder Monitoring'.

[245] See Galvão, 'Femicídio #Invisibilidademata', at 65, 73-76, TGEU, 'Transrespect Versus Transphobia Worldwide. Annual Report 2016. An Introduction to the Trans Murder Monitoring', Artigo19, 'Dados Sobre Feminicídio No Brasil #Invisibilidademata'.

lesbians, gays, bisexuals and transgender people, as well as being fifth in the world for femicides, only behind El Salvador, Colombia, Guatemala, and Russia.[246]

"The First Violence is the Lack of Information"

A transwoman activist from the Amazon told me that the lack of information is the primary violence executed by the state against their bodies. Resonating with her statement and with similar claims made by other peripheric women spoken to in the fieldwork, this work will now reflect on the lack of information regarding law and legal language; the challenges of passing through the "door of the law".

Initially, I will differentiate between the notions of the "language of rights" and "legal language". The language of rights has been used by social movements to call for social transformation. By contrast, legal language is the vocabulary employed in legal texts and judicial decisions, which is in a predominantly technical language accessible only by legally trained people, such as lawyers, judges, academics and other practitioners.

As emphasized by many women I spoke with, legal institutions and discourses have been inaccessible for most peripheric people. For example, a *Karapãna* indigenous leader pointed out the way that they are completely excluded from judicial process that concern their own territory (the collective or individual ownership of the lands they traditionally occupy); a situation that harms not only their right to participate in the judicial process but the very principle of fair trial. In this respect, she pointed out the way that the state, instead of ensuring the respect of their rights, was actually violating their legal guarantees.

Furthermore, activist women engaged in promoting debates on violence in schools, prisons, and neighborhood associations stated how most 'micro' aggressions against women are not even perceived as violence but naturalized within the *sexist* practices of society. For instance, four activists from different locations (Niteroi, Rio de Janeiro, Manaus and Salvador) emphasized that, at the beginning of the meetings, many women did not acknowledge having suffered violence. However, after debating and exposing several dimensions and definitions of gender-based violence, by the end of the meetings, many women revealed that they themselves had suffered various types of

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[246] See Laurent, Platzer, and Idomir, 'Femicide: A Global Issue That Demands Action', Flacso, 'Mapa Da Violência 2015. Homicídio De Mulheres No Brasil', (1 edn.; Brasília, DF, 2015).

violence. The point is that they were not previously aware that these abuses were also called "violence".

In the same direction, a public survey asked women if they had suffered violence, to which 18% stated yes. After that, the survey asked the same women if they suffered any of the specific types of violence that were on a list, to which 40% of the women admitted to having suffered at least one of them.[247]

According to a public survey from 2017, surprisingly, all the interviewed women had already heard about the Maria da Penha Law. However, only 18% actually knew the law in more detail, while 77% admitted to not knowing very much about its content.[248] Indeed, the information has not been homogeneously shared by women. Younger women with formal education backgrounds, as well as higher income, have more access to it.[249]

Drawing on the discrepancy between the two levels of access to information, as well as on the experiences shared by activist women, this analysis emphasizes how being able to learn the definition and various forms of violence is crucial in the recognition, denaturalization and interruption of the continuum of violence. As previously mentioned, feminicide is the *front door* of violence and often consists in an avoidable crime if one can carefully listen to its early manifestations of violence. Thus, an early diagnosis offers the potential to interrupt the cycle and to escape the ultimate act of murder. Hence, information about the forms and definitions of violence as well as about services are of utmost important.

Women's Police Station

In 1985, the first DEAM was established in Brazil. The women's police station has been considered a mark on the public recognition of violence against women in the

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[247] Senado, 'Relatório Final: Situação da Violência Contra a Mulher no Brasil', at 21.

[248] Cf. SENADO FEDERAL. Violência Doméstica e Familiar Contra a Mulher. DF: Instituto de Pesquisa DATASENADO, Observatório Mulher contra Violência, Secretaria de Transparência do Senado Federal. 2017. Pasinato, 'Dez Anos Mais Um: A Implementação da Lei Maria da Penha no Passar dos Anos', at 65, 69. Indeed, more than half of the phone calls to the Program Call 180 (Federal Government Women's Service Center) were not to denounce violence but to request legal information. Cf. BRASIL. Balanço Ligue 180. 1o semestre de 2016. Brasília: Secretaria de Políticas para Mulheres. 2016. Ibid., at 67. Segato, 'Femigenocidio Como Crimen En El Fuero Internacional De Los Derechos Humanos', at 127.

[249] FORUM Brasileiro de Segurança Pública e INSTITUTO Avon. Visível e Invisível: a vitimização de mulheres no Brasil. SP: FBSP/Instituto Avon/DATAFOLHA, 2017. Pasinato, 'Dez Anos Mais Um: A Implementação Da Lei Maria Da Penha No Passar Dos Anos', at 69.

legal terms of crime. It holds the major task of providing a safe and judgment-free environment for women to report violence with the assistance of properly trained and sensitivity professionals, preferably women employees.[250] The DEAM symbolizes a response to two crucial problems: i) the impunity of cases involving violence against women; and ii) the sexist behavior within police stations which perpetuates the sub-notification of gender-based violence.[251]

In a complementary manner, there is also the *Núcleo de Atendimento à Mulher* (Center for the Attendance of Women or NUAM) as an alternative solution for towns without DEAM. The NUAM should operate inside the regular police station, twenty-four hours a day, with female policemen, with a safe and judgmental-free environment for women in violent circumstances.[252]

Despite the hope created by the legislations on DEAM, after more than thirty years of implementing the aforementioned policies, the results have been very different from the outlined provisions.[253] In this respect, it is possible to identify four major obstacles: (a) insufficiency of units; (b) geographic location and inaccessibility; (c) precarious conditions; and (d) lack of female employees and professional training.

(a) Insufficiency of Units

Firstly, in a country with more than 200 million inhabitants and an area of more than 8.5 million square kilometers, less than 10% of the municipalities actually have a DEAM. For instance, the state of Roraima, where the murder rate of women is proportionally higher than the national average (15.3 homicides per 100.000 women), only has one specialized police station for 605.761 habitants.[254] Tragically, the implementation

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[250] Cf. Violência, 'Panorama De Violência Contra as Mulheres No Brasil. Indicadores Nacionais E Estaduais', at 17. Campos, 'Lei Maria Da Penha: Fundamentos E Perspectivas', at 22.

[251] See Wânia Pasinato and Cecília Macdowell Santos, 'Mapeamento Das Delegacias Da Mulher No Brasil', *Projeto Acesso à justiça para mulheres em situação de violência: Estudo comparativo das Delegacias da Mulher na América Latina (Brasil, Equador, Nicarágua, Peru)* (Campinas/São Paulo: Núcleo de Estudos de Gênero Pagu, Universidade Estadual de Campinas PAGU/UNICAMP, 2008) at 9-10, Cecília De Melo Souza and Leila Adesse, 'Violência Sexual No Brasil: Perspectivas E Desafios', (Brasília: Secretaria Especial de Políticas para Mulheres, 2005) at 80-1.

[252] Pública, 'Dossiê Mulher 2016', at 39-40.

[253] In 2011, the National Senate formed a Joint Parliamentary Committee of Inquiry (CPMI) to investigate the state omission regarding the application of the legal instruments towards protecting women in situation of gender-based violence. See Human Rights Watch, 'World Report: Brazil', (Human Rights Watch, 2019).

[254] Senado, 'Relatório Final: Situação da Violência Contra a Mulher No Brasil', at 48.

of DEAMs and NUAMs is not only insufficient but is decreasing in the last years. The country had 504 units in 2016, and only 497 units in 2017.[255]

(b) Geographic Location and Inaccessibility

Secondly, the geographic location of the women's police station poses an additional obstacle for reporting violence. Several peripheric activists stressed the difficulties in accessing the station concerning public transportation and economic conditions. As shared by many women activists, the necessity to cross the city for accessing the DEAM is not only timely, physically and emotionally exhausting, but also costly. Sometimes they barely have enough money for the bus and many times the money is not enough for the battered woman and the activist woman offering the support to go to the police station together.

If the remote location of the women's police stations is a critical factor in the urban areas, the situation in rural or small towns is even more pressing due to the complete absence of them.[256] Several women pointed out how the local police refuse to register domestic violence on the grounds that they are not a DEAM, suggesting that they only could report gender-based crime at the DEAM.

(c) Precarious Conditions

Thirdly, the existing units are in extremely precarious conditions. According to the national report from 2001, the units lacked: vehicles (19.10% had no vehicles), weaponry (32.58% did not have any firearms); equipment (31.46% had no computer), internet access (absent in 81%) and even telephone lines (non-existent in 20.6%).[257] In a follow-up report from 2007, additional omissions were outlined regarding the operation of DEAMs such as: lack of institutional partnerships; lack of referral protocols and follow-up mechanisms; lack of articulation and knowledge between services and support; lack of public data and statistics; lack of continuous formation of employees.[258] All in all,

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[255] See Watch, 'World Report: Brazil'. Senado, 'Relatório Final: Situação da Violência Contra a Mulher No Brasil', at 51. Pasinato and Santos, 'Mapeamento Das Delegacias Da Mulher No Brasil', at 12, Souza and Adesse, 'Violência Sexual No Brasil: Perspectivas E Desafios', at 80-1.

[256] Senado, 'Relatório Final: Situação da Violência Contra a Mulher No Brasil', at 51.

[257] Cf. Mulher, 'Pesquisa Nacional Sobre as Condições De Funcionamento Das Delegacias Especializadas No Atendimento Às Mulheres: Relatório Final'.

[258] Cf. CEPIA, 'Acompanhamento E Fortalecimento Da Política Nacional De Combate À Violência Contra a Mulher No Estado Do Rio De Janeiro'.

the CPMI in 2013 described the units as "*sucateadas*" which could be translated as abandoned, scrapped, neglected, not only in the material resource aspect, but also in the human resource related to the number and qualification of employees.[259]

(d) Lack of Female Employees and Professional Training

Fourthly, the main claim related to the DEAMs was the relevance of having female employees working at the police stations. However, women still occupy predominantly administrative functions in the police stations (average of 0.8 men per woman), instead of operational tasks (average of 4.6 men per woman). Not surprisingly, police work as a career continues to be predominantly male. According to the official data presented by IBGE in 2018, 86.6% of police are men and only 13.4% are women.[260]

Regarding the multidisciplinarity of the team, there is no official data on that so far. Almost no focus on gender-based issues and specificities has been offered. For instance, courses on notions of "domestic violence and gender" and "conflict mediation" were carried out only by 1.3% and 2.5% of the staff respectively.[261]

Activist women emphasized several times how state authorities reproduced sexist violence at the very moment of making the report of gender-based violence. Blaming and discouragement have been common practices. Ergo, police stations have been maximizing the experience of violence and re-victimizing women.

"If it is already hard enough to speak about violence to a close friend, [you can] imagine speaking about it to a macho man [at the police office]," highlighted an activist woman from the periphery of Salvador. She also mentioned the fact that the local DEAM put up a sign demanding women to wear "proper clothes" when making a report of violence. After photographing the paper and complaining about it to the authorities, she was thrown out of the police station. Thus, instead of providing a safe and judgment-free environment for women, police stations and state's authorities perpetuate sexism by questioning their version of the facts, or how they were dressed, or their moral behavior, and very often try to convince the woman not to report the crime, as attested to by several activist women.

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[259] Senado, 'Relatório Final: Situação da Violência Contra a Mulher No Brasil', at 49.

[260] IBGE, 'Informação Demográfica e Socioeconômica', *Estudos e Pesquisas* (n. 38; Brazil: IBGE (Instituto Brasileiro de Geografia e Estatística), 2018).

[261] Cf. Pasinato and Santos, 'Mapeamento Das Delegacias Da Mulher No Brasil', at 22, (SENASP), 'Perfil Das Organizações de Segurança Pública. Perfil Das Organizações Estaduais e Municipais de Segurança Pública'. (SENASP, 2007).

On top of that, the relationship between marginalized communities and the police has been profoundly violent in Brazil. That is to say, the police have been responsible for the massive killing of black men, most of them young and predominantly the partners and sons of black women. Thus, police violence has affected the lives of black women, especially mothers who lose their sons but also wives whose partner has been killed or imprisoned.[262] Also, indigenous women emphasized the tense connection between police and violence. In the Amazon, many indigenous communities have been threatened and had their houses completely destroyed by the hands of police officers in cooperation with "*capangas*" (armed people hired to protect private property of farmers). Despite that, there have been several cases of forced disappearances, physical violence and murders. In the words of an indigenous community leader, "the authorities who were supposed to defend us, are the ones who directly harm our human rights."[263] Last but not least, LGBTQIA+ people, and in particular transgender women, face a higher level of vulnerability when accessing the police station.[264]

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In sum, many other cases of institutional discrimination and violence were narrated during the conversations with grassroots activists. In sum, they face seven major obstacles to denouncing gender-based violence: i) lack of commitment on the part of state agents and low sensitivity of the responsible authorities; ii) lack of training of legal

[262] More, see Streva, *Corpo, Raça, Poder: Extermínio Negro No Brasil.* UN, 'Relatório Do Relator Especial De Execuçoes Extrajudiciais, Sumárias ou Arbitrárias Dr. Philip Alston', *Adendo Missão ao Brasil. Promoção e Proteção de todos os Direitos Humanos, Civis, Políticos, Econômicos, Sociais e Culturais incluindo o Direito ao Desenvolvimento* (11 Session: United Nations (UN), 2008). HRW, 'Força Letal: Violência Policial e Segurança Pública no Rio de Janeiro E Em São Paulo', (Brazil: Human Rights Watch Brasil (HRW), 2009). Julio Jacobo Waiselfisz, 'Mapa da Violência 2012: A Cor dos Homicídios no Brasil', (Brasília and Rio de Janeiro: FLACSO and SEPPIR/PR, 2012). Geledés and Criola, ' A Situação Dos Direitos Humanos Das Mulheres Negras No Brasil. Violências e Violações', at 19, Anistia Internacional, 'Você Matou o meu Filho: Homicídios Cometidos Pela Polícia Militar na cidade do Rio de Janeiro', (Rio de Janeiro: Anistia Internacional Brasil, 2015). SANTOS, Cecília MacDowell. Women's police stations: gender, violence, and justice in São Paulo, Brazil. New York: Palgrave Macmillan, 2005. Santos, 'Para Uma Abordagem Interseccional da Lei Maria da Penha', at 52. *Instituto de Defensores de Direitos Humanos* (Rio de Janeiro, 2018).

[263] More, see DHESCA, 'Violações De Direitos Humanos Dos Indígenas No Estado Do Mato Grosso Do Sul', *Relatório da Missão ao Mato Grosso do Sul* (Curitiba: Relatoria do Direito Humano à Terra, Território e Alimentação. Plataforma de Direitos Humanos - DHESCA Brasil. , 2014), CIMI, 'Violência Contra Os Povos Indígenas No Brasil. Dados De 2018', (Brasil: Conselho Indigenista Missionário (CIMI), 2018), HRC, 'Report of the Special Rapporteur on the Rights of Indigenous Peoples', *Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development* (Advance Edited Version edn., Agenda item 3: Human Rights Council (HRC), United Nations, 2018),

[264] IACHR, 'Advances and Challenges Towards the Recognition of the Rights of LGBTI Persons in the Americas'.

practitioners and lack of information and advice for women in situations of violence; iii) re-victimization of women while they are filling their legal claims; iv) delay in the application of the measures of investigation and judgment; v) absence of a common database on the applicable protection measures; vi) precautionary measures that do not apply to situations of violence occurring outside the domestic sphere; vii) lack of immediate attention; viii) problems for assessing the intensity of danger.[265] These barriers have been producing a deep distrust in relation to the police and the legal system in general.

The Cult of 'True Victimhood'

Most legal research has ignored or overlooked how the legal system has had a deep impact on the formation of subjectivities and communities.[266] In this section, the dissertation will examine how the law not only employs the category of victim, but actively constructs and enforces it. The Brazilian studies on violence against women proliferated in the early works from the 1980s. Initially, the legal discourse of victimization was mostly not problematized but reinforced based on the primary aim of making visibile the violence against women.[267] In this respect, three main theoretical trends will be examined in the following paragraphs.

The first one relates mainly to the pioneer work *Participando do Debate sobre Mulher e Violência* (1985) from the philosopher Marilena Chaui. There, the author defines violence against women as an expression of male domination, produced and reproduced by both men and women. In these terms, women are conceived of as both "victims" and "accomplices" of male domination. Despite being perceived as "accomplices" of violence who contribute to the reproduction of their "dependence", women are perceived as

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[265] See CIDH. *Acesso à Justiça para Mulheres Vítimas de Violência Sexual na Mesoamerica*, OEA Ser.L/V/II. Doc. 63, 9 de dezembro de 2011. p. 49. CIDH. "Informe de Admissibilidade". María Isabel Veliz Franco (Guatemala). Nº 92/06, Petição 95-01 de 21 de outubro de 2006.

[266] More, see Cornelius Prittwitz, *The Resurrection of the Victim in Penal Theory*, 3 BUFF. CRIM. L. REV. 109, 112 (1999). Morrison, 'Changing the Domestic Violence (Dis)Course: Moving from White Victim to Multi-Cultural Survivor', at 1098-9.

[267] Santos and Izumino, 'Violência Contra as Mulheres e Violência de Gênero: Notas Sobre Estudos Feministas No Brasil', at 148-50.

"instruments" of male domination. Thus, their complicity is not based on choice or freewill.[268]

The second strand has as its main reference point the work of sociologist Heleieth Saffioti. This scholar conceives of gender-based violence as an expression of patriarchy, in which women are seen as autonomous social subjects, but subjects who nevertheless are historically victimized by *macho* control. Differently from the first strand, she rejects the categorization of women as "accomplices" of violence, conceiving women to be "victims" and "subjects" of unequal relationships of power with men. At the book *O Poder Do Macho* (1987), she explains that:

> Not only does society accept male adultery, but it also always finds a way to justify it through the conduct of the wife. A woman almost always ends up being blamed for her own suffering. If she was caught by her husband, if she was murdered by him, it is because she deserved it. The police, justice, in short, society turns the victim into a defendant, even after her death.[269]

The third line of interpretation is mainly based on the work *Cenas e Queixas* (1993) written by Maria Filomena Gregori. The author relativizes the notions of male domination and female victimization, considering women as "accomplices" in the reproduction of gender roles that foster violence. Accordingly, women have autonomy and actively participate in violent relationships and, when denouncing violence, would represent herself as "victim" and "non-subject". [270]

Following Cecília Santos and Wânia Pasinato Izumino, this analysis considers the argument stated by Gregori as highly problematic in at least three ways. Firstly, the author completely disregards power relations in her analysis, assuming social equality between the partners. Secondly, the analysis does not situate individual cases of violence in their broader social context and does not discuss the complaints in the institutional setting of the care. Thirdly, the author generalizes the meaning of the complaints, reducing them to a "production of victimization."[271]

The importance of examining these three strands is due to the fact that, until today, a large part of the population always blamed the woman for the violence she

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[268] Marilena Chaui, 'Participando do Debate sobre Mulher e Violência', in Bruna Franchetto, Maria Laura Cavalcanti, and Maria Luiza Heilborn (eds.), *Perspectivas Antropológicas Da Mulher* (4; Rio de Janeiro: Zahar Editora, 1985), 25-62 at 47-8.

[269] Saffioti, *O Poder Do Macho* at 36.

[270] Maria Filomena Gregori, *Cenas e Queixas: Um Estudo sobre Mulheres, Relações Violentas e a Prática Feminista* (Rio de Janeiro: Paz e Terra, 1993).

[271] Santos and Izumino, 'Violência Contra as Mulheres e Violência de Gênero: Notas Sobre Estudos Feministas No Brasil', at 153-4.

suffered violence.[272] The blaming has been one of the most pervasive features of social silencing, since it produces the impossibility to speak while individualizing, isolating and depoliticizing the issue of violence. Regarding the three outlined perspectives, this study is situated more closely to the second group while extending even farther to problematize the very category of victim that is constructed by legal discourse.

The mainstream narrative has always been centered exclusively on the victim, producing the "victimization" of women in an essentialized form of legal subjectivity. This essentialization can be translated as "the idea that the moral status of a wrongful act turns in part on the degree to which the wrong's victim is vulnerable or innocent and the wrongdoer preys upon that vulnerability or innocence" as argued by the legal scholar Joshua Kleinfeld.[273]

In this regard, the victimization is responsible for producing the cult of 'true victimhood'.[274] Similar to the notion of 'true womanhood', the cult is based on the essentialized ontology of a 'real victim', who should reinforce essentialized characteristics of piety, purity, domesticity, and submissiveness related to lifestyle, tone of voice and dressing codes, for instance. Otherwise, the legal system would resist and no longer regard the survivor woman as being within the legal category of victim.[275]

The legal construction of victimhood does not recognize women as political agents. Rather, it systematically isolates and creates numerous obstacles that block women from convening and publicly speaking out. As stated by the feminist scholar Maria Galindo, "being [portrayed as] victims prevents us from taking control of our own destiny, prevents us from transforming pain into strength and rebellion".[276]

Instead of repeating the naturalized questions of "why does she stay" or "why does she go back to him?" when addressing women in situations of violence, this work stresses the importance of shifting the frame toward the question "why is he so violent?",

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[272] Pasinato, 'Dez Anos Mais Um: A Implementação da Lei Maria da Penha no Passar dos Anos', at 68.

[273] In fact, the concept remains somehow implicit in both the doctrine and practice of criminal law on the grounds that general criminal theory states that the victim's characteristics should not have relevance in determining how wrong a crime is or what punishment it merits. See Joshua Kleinfeld, 'A Theory of Criminal Victimization', *Stanford Law Review,* 65 (2013), 1087-152 at 1087-9, ibid., at 1089.

[274] Morrison, 'Changing the Domestic Violence (Dis)Course: Moving from White Victim to Multi-Cultural Survivor', at 1083-4.

[275] More, see ibid. Lynn Stephen, *Women and Social Movements in Latin America. Power from Below* (Austin: University of Texas Press, 1997) at 274. Silvia Federici, 'Prólogo', *No Se Puede Descolonizar Sin Despatriarcalizar. Teoría Y Propuesta De La Despatriarcalización* (La Paz, Bolivia: Mujeres Creando, 2013) at 10. Mohanty, *Feminism without Borders. Decolonizing Theory: Practicing Solidarity* at 72.

[276] Translated from the original in Spanish: "ser víctimas nos impide tomar la rienda de nuestro propio destino, nos impide transformar el dolor en fuerza y rebeldía". Cf. Galindo, *No Se Puede Descolonizar Sin Despatriarcalizar. Teoría Y Propuesta De La Despatriarcalización* at 56-60.

as argued by Adele Morrison in her paper *Changing the Domestic Violence (Dis)Course* (2006).[277]

Drawing on the arguments presented, this analysis adopts the terminologies of "survivor" or "women in situations of violence" in an attempt to contest and resignify the legal category of 'victim'.[278]

Acolhimento

For decades, feminist academics and activists have been claiming that "the personal is political." This slogan is attributed to Carol Hanisch, in the publication *Notes for the Second Year* (1970) in which she theorizes about women who survive abusive relationships.[279] One of the most crucial conditions for escaping and surviving domestic violence has been considered the provision of shelters.

After the establishment of Maria da Penha Law in 2006, the Technical Standard for Uniformization of Assistance Centers for Women in Situations of Violence (Assistance Centers) was developed to provide guidelines to the local municipalities for implementing protective measures for women in situations of violence.[280] Accordingly, the Assistance Centers should: i) provide counseling in order to minimize the traumatic effect of violence; ii) guarantee psychosocial care, with the objective of promoting the recovery of women's self-esteem in situations of violence and their autonomy, helping them to seek and implement mechanisms of protection and/or overcome the impact of violence; iii) to advise woman on legal procedures within the judicial system and on police administrative measures; iv) organize activities for prevention based on awareness-raising,

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[277] Morrison, 'Changing the Domestic Violence (Dis)Course: Moving from White Victim to Multi-Cultural Survivor', at 1104-5.

[278] More, see Cherríe Moraga, 'La Guera [1979]', in Cherríe Moraga and Gloria Anzaldúa (eds.), *This Bridge Called My Back. Writings by Radical Women of Color* (New York: Kitchen Table: Women of Color Press, 1983) at 34. Santos and Izumino, 'Violência Contra as Mulheres e Violência de Gênero: Notas Sobre Estudos Feministas No Brasil', at 159-60. Bell Hooks, *Ain't I a Woman. Black Women and Feminism* (London: Pluto Press, 1982) at 196. Severi, *Lei Maria Da Penha E O Projeto Jurídico Feminista Brasileiro* at 53.

[279] Carol Hanisch, *Notes for the Second Year* (1970), apud Maggie Humm, The Dictionary of Feminist Theory 67 (2d ed. 1995), at 204. Morrison, 'Changing the Domestic Violence (Dis)Course: Moving from White Victim to Multi-Cultural Survivor', at 1083-4.

[280] Brasil, 'Norma Técnica De Padronização Das Delegacias Especializadas De Atendimento Às Mulheres - DEAMs', in Secretaria De Políticas Para as Mulheres Da Presidência Da República Do Brasil; Secretaria Nacional De Segurança Pública Do Ministério Da Justiça; Escritório Das Nações Unidas Sobre Drogas E Crime (UNODC) (ed.), (Edição Atualizada 2010 edn.; Brasília: Ministério da Justiça do Brasil. Central de Atendimento à Mulher - Ligue 180, 2006, 2010).

and dissemination of data on violence focused on de-structuring prejudices which underlie discrimination and gender-based violence; v) invest in training and the continuous qualification of professionals in the Centers; vi) articulate the local service into a larger network, guaranteeing integrality and humanization of the support work; vii) provide local data to municipal, state and federal management institutions to assist the implementation of public policies concerned with ending gender-based violence.[281]

The Assistance Centers were also supposed to establish a network within the municipal public policy management for women in order to provide a space of "*acolhimento*". Such a space should be guided by the following principles: i) to meet the needs of women in situations of violence; ii) to defend women's rights and accountability of perpetrators; iii) to recognize intersectionality of the experience of being women; iv) to diagnose the context in which the episode of violence is inserted; v) to avoid measures that may cause greater risk for women in situations of violence; vi) to team up with other public services; vii) to have a democratic management, encouraging the engagement of women in monitoring activities.[282]

The word "*acolher*" was invoked by several grassroots activists during the fieldwork when addressing gender-based violence. The term has no suitable translation into English, since it refers to a multiplicity of actions related to the physical, emotional, psychological, economic and social care of women – such as to listen, trust, count on, support, welcome, host, care, empower. Therefore, much more than offering a shelter, *acolher* embraces the act of creating an affective territory of caring, listening, respecting, and supporting each other.

In this respect, the act of careful listening plays a central role in *acolher*. Accordingly, the primary need of a woman facing a continuum of violence is usually to have someone to talk to in a non-judgmental and respectful manner. Instead of directly going to the police, women who are engaged at the grassroots level, recognize the importance of recalling and speaking about such a painful, hard, and intimate experience which one has previously been facing alone, continually, in silence. Ergo, the act of listening and allowing the other to speak represents a crucial step in moving outside the cycle of guilt and shame commonly attached to gender-based violence.

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[281] See Secretaria De Políticas Para as Mulheres Da Presidência Da República Do Brasil, 'Norma Técnica De Uniformização Centros De Referência De Atendimento À Mulher Em Situação De Violência', in SPM/PR (ed.), (Brasília, 2006) at 15.
[282] See ibid., at 16.

In Brazil, there are two main forms of institutional spaces of *acolhimento*: the "*casa da mulher brasileira*" (Brazilian woman's house) and the "*casa abrigo*" (shelter). The first one is intended to provide specialized services concerning gender-based violence, such as: reception and sorting; psychosocial support; police station; judicial service; public ministry, public defender's office; promotion of economic autonomy; child-care; "*alojamento de passagem*" (transit-accommodation) and transport center. The second one is supposed to offer a safe shelter as well as a multidisciplinary assistance to women facing the risk of oncoming murder due to domestic violence. It is a temporary and confidential space where women can receive protection and have the necessary time to gather conditions to disrupt the cycle of violence and re-organize their lives.

However, in practice, few shelters have actually been established in the large dimension of Brazil. For instance, not more than 2.5% of the cities actually have a shelter for women in situations of violence. The states of Acre and Roraima, which proportionally have the highest number of female homicides in Brazil, do not even have a single shelter. From the 3,852 towns with up to 20,000 inhabitants, 16 shelters scarcely operate. This adds up to approximately one shelter for every 240 cities.

Regarding the judicial protective measure, the services provided by the Assistance Centers have been completely disintegrated from the justice system. On top of that, instead of respecting Maria da Penha Law's special requirements, judges have been demanding evidence to concede protective measures based on the traditional penal system rationale that revolves around authorship and materiality. Ergo, the process for obtaining an order of protection includes a lot of paperwork needed for reinforcing the 'true victimhood' narrative that essentializes woman subjectivity.[283]

As a result of that, 85% of Brazilians believe that a woman who denounces her partner or ex-partner faces a greater risk of being murdered. However, the silence was also not considered a safer alternative. According to 92% of the respondents, the cases of domestic violence that do not receive a proper or timely exposure will lead to the final and extreme violence, the feminicide.[284] In the same direction, a black activist lawyer shared how she changed her strategy of encouraging women to go straight to the police

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[283] More, see Campos, 'Lei Maria Da Penha: Fundamentos E Perspectivas', at 31-2. Morrison, 'Changing the Domestic Violence (Dis)Course: Moving from White Victim to Multi-Cultural Survivor', at 1077. Elizabeth Macdowell, 'Theorizing from Particularity: Perpetrators and Intersectional Theory on Domestic Violence', *Scholarly Works,* /Paper 769 (2013) at 533. Ann Cammett, Queer Lockdown: Coming to Terms with the Ongoing Criminalization of LGBTQ Communities, Scholar & Feminist Online, Summer 2009, at 1, 4. Adele Morrison, Changing the Domestic Violence (Dis)Course: Moving from White Victim to Multi-Cultural Survivor, 39 U.C. Davis L. Rev. 1061 (2006).

[284] Galvão, 'Femicídio #Invisibilidademata', at 36.

station to report domestic violence. Without the proper public assistance, the "woman denounces the aggressor and, on the next day, she is no longer [alive] here."

On top of all that, the situation of the institutional spaces of *acolhimento* has become even more precarious in recent years. In 2017, twenty-three shelters closed down, leaving the derisory number of 74 shelters in the entire country, with a population of over 103 million women.[285]

Moving Below: Passing Through the *Front Door* of Violence

As argued throughout this chapter, the mainstream legal analysis has been based on the discourse of the 'evolution' of rights, on the examination of jurisprudence, as well as on the legal implementation.[286] Some of the tendencies for examining the implementation of law have been grounded on: i) the reduction of systematic violence to individual criminal cases; ii) the fragmentation of violence into segregated categories of law, which result in reading gender-based violence as one-dimensional violence against the normativity image of woman – white, middle class, heterosexual, cisgender; iii) the struggle against impunity centered on the criminal system as the gold solution.[287]

Challenging the dominant legal frame, this research does not intend to repeat the mantra of safety that places the woman in the position of victimhood, powerlessness or

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[285] See IBGE, PNAD-C (Pesquisa Nacional por Amostra de Domicílios Contínua). Conheça o Brasil – População. Quantidade de Homens e Mulheres. 2017.

[286] More, see Pasinato, 'Dez Anos Mais Um: A Implementação Da Lei Maria Da Penha No Passar Dos Anos', at 71. CEPIA. Violência Contra a Mulher e Acesso à Justiça. Estudo comparativo sobre a aplicação da Lei Maria da Penha em cinco capitais. Relatório Final. Rio de Janeiro: CEPIA/Fundação Ford. 2013. DINIZ, Débora e Sinara GUMIERI. Implementação das Medidas Protetivas da Lei Maria da Penha no Distrito Federal entre 2006- 2012 in Pensando a Segurança Pública: Direitos Humanos, Grupos Vulneráveis e Segurança Pública (vol. 6), org. Ana Carolina Cambeses Pareschi, Cíntia Liara Engel, Gustavo Camilo Baptista e Alex Jorge das Neves. Brasília: Ministério da Justiça/ SENASP, 2016: 205-31. PASINATO, Wânia et al. Medidas Protetivas para as Mulheres em Situação de Violência in Pensando a Segurança Pública: Direitos Humanos, Grupos Vulneráveis e Segurança Pública (vol. 6), org. Ana Carolina Cambeses Pareschi, Cíntia Liara Engel, Gustavo Camilo Baptista e Alex Jorge das Neves (Brasília: Ministério da Justiça/SENASP, 2016): 230- 62. HUMAN RIGTHS WATCH. Um dia vou te matar. Impunidade em casos de violência doméstica no estado de Roraima. 2017. SP: HRW Brasil.

[287] More, see Patricia Sellers, "Feminicídio É Um Fenômeno Sociológico, E O Estado Precisa Mudar a Cultura Dos Homens", in Constança Tatsch (ed.), (Brazil: O Globo, 2019). M. Jacqui Alexander, 'Erotic Autonomy as a Politics of Decolonization: An Anatomy of Feminist and State Practice in the Bahamas Tourist Economy', in M. Jacqui Alexander and Chandra Talpade Mohanty (eds.), *Feminist Genealogies, Colonial Legacies, Democratic Futures* (New York and London: Routledge, 1997) at 70, 78.

objectification.[288] Such mainstream rhetoric has been distorting demands made by social movements in a very narrow and problematic legal translation in terms of criminal system and individual punishment. In this respect, this work follows the critique raised by several feminist scholars that "the domestic violence movement has been changed by the law rather than the law being changed by the fight to end violence against women."[289]

The automaticity in which academic analysis has been delved into can be destabilized in the continual reproduction of similar frames, methodologies, questions and therefore solutions. That is to say, the legal discourse has been defining the terms and forms of women's struggles, constricting the understanding of 'measurements of success' to the numbers of orders of protection issued and arrests made.[290]

This does not mean to dismiss the symbolic and political importance of the discourse of rights nor to devalue the strategic claim for rights.[291] Instead, the research stresses the importance of *moving below* the mainstream approach of law and to pass through the *front door of violence*. This means to excavate the grounds of the constitution of modern identity, division of labor and property concentration within the legal genealogy. It refers to the material excavation of the emergence of the modern nation state as well as the historical interplay between colonialism, capitalism and law. [292]

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[288] Cf. Giulia Tamayo, 'Current Debates on Safety: A Women's Human Rights Approach', in Ana Falú (ed.), *Women in the City: On Violence and Rights* (Santiago de Chile: Women and habitat network of Latin America/ Ediciones SUR, 2010) at 52. Laurent, Platzer, and Idomir, 'Femicide: A Global Issue That Demands Action', at 4. Falú, 'Violence and Discrimination in Cities', at 32. Ríos and Roberts, 'Preface: Feminist Keys for Understanding Feminicide: Theoretical, Political, and Legal Construction', at xiv.

[289] More, see Morrison, 'Changing the Domestic Violence (Dis)Course: Moving from White Victim to Multi-Cultural Survivor', at 1100. Carol Smart, *Feminism and the Power of Law* (London and New York: Routledge, 1989). Severi, *Lei Maria Da Penha E O Projeto Jurídico Feminista Brasileiro* at 67. Segato, 'Femigenocidio Como Crimen En El Fuero Internacional De Los Derechos Humanos', at 133. Alexander, 'Erotic Autonomy as a Politics of Decolonization: An Anatomy of Feminist and State Practice in the Bahamas Tourist Economy', at 77-8.

[290] Cf. Morrison, 'Changing the Domestic Violence (Dis)Course: Moving from White Victim to Multi-Cultural Survivor', at 1100. Smart, *Feminism and the Power of Law*. Severi, *Lei Maria Da Penha E O Projeto Jurídico Feminista Brasileiro* at 67. Alexander, 'Erotic Autonomy as a Politics of Decolonization: An Anatomy of Feminist and State Practice in the Bahamas Tourist Economy', at 77-8.

[291] More, see Williams, 'Alchemical Notes: Reconstructing Ideals from Deconstructed Rights', at 416-7. Rajagopal, *International Law from Below. Development, Social Movements, and Third World Resistance* at 173, Williams, 'Alchemical Notes: Reconstructing Ideals from Deconstructed Rights'.

[292] Alexander, 'Erotic Autonomy as a Politics of Decolonization: An Anatomy of Feminist and State Practice in the Bahamas Tourist Economy', at 79. M. Jacqui Alexander and Chandra Talpade Mohanty, 'Introduction: Genealogies, Legacies, Movements', ibid. at xxi. Rajagopal, *International Law from Below. Development, Social Movements, and Third World Resistance* at 240.

Cartography of Othering:

Colonial Dispossession, Slave Labor, Property Accumulation

[I]t is the condition of the enslaved woman that most explicitly reveals the truth and the logic of capitalist accumulation. But despite the differences, in both cases, the female body turned into an instrument for the reproduction of labor and the expansion of the work-force, treated as a natural breeding-machine, functioning according to rhythms outside of women's control.

Silvia Federici[vi]

Sex in the universe of slavery was a weapon, a mechanism, of torture, a calculated means of reproducing slaves and slavery, and the consummate form of annihilation.

Lamonte Aidoo[vii]

I am talking here about the very fabric of your lives, your dreams, your hopes, your visions, your place upon the earth. All of these will help to determine the shape of your future as they themselves are born from your efforts and pains and triumphs of the past. Cherish them. Learn from them. Our differences are polarities between which can spark possibilities for a future we cannot even now imagine, when we acknowledge that we share a unifying vision, no matter how differently expressed; a vision which supposes a future where we may all flourish, as well as a living earth upon which to support our choices. We must define our differences so that we may someday live beyond them, rather than change them.

Audre Lorde[viii]

This dissertation passes through the *front door of violence* to excavate the non-exposed violence that permeates law and impacts the very constitution of our ontologies as modern subjects.[293] For tracing this broader cartography, the analysis considers historiography as a powerful arena for contextualizing and interrogating naturalized assumptions of identity based on "it was always this way" narratives.[294]

Taking seriously Joan Scott's proposition of examining how politics construct gender and how gender constructs politics, this chapter recognizes gender not only as a product of history but also as a producer of history.[295] That is to say, "gender is social practice that constantly refers to bodies and what bodies do, it is not social practice reduced to the body".[296] Moreover, gender is necessarily entangled with race, sexuality and class as crucial frames for elaborating on the formation of modern subjectivity, political institutions and economic structures of society.[297]

For this, this work adopts the notion of "othering" to examine four major points. Firstly, the role of law in defining and naming violence, as well as the colonial implications for re-defining (white) masculinity and (white) womanhood. Secondly, the legal aspects of slavery in establishing a colonial bureaucratic regime, referring to the opposition of

[293] See Denise Ferreira da Silva, 'To Be Announced - Radical Praxis or Knowing (at) the Limits of Justice', *Social Text, Duke University Press,* 31/1 (2013), 43-62 at 52. M. Jacqui Alexander and Chandra Talpade Mohanty, 'Introduction: Genealogies, Legacies, Movements', in M. Jacqui Alexander and Chandra Talpade Mohanty (eds.), *Feminist Genealogies, Colonial Legacies, Democratic Futures* (New York and London: Routledge, 1997) at xxi. Brenna Bhandar, 'Law and Coloniality', in Olivier Chassaing (ed.), *French online journal of Marxist theory* (Critical Legal Thinking. Law and the Political, 2016).

[294] Maria Eugenia Chaves, 'Slave Women's Strategies for Freedom and the Late Spanish Colonial State', in Elizabeth Dore and Maxine Molyneux (eds.), *Hidden Histories of Gender and the State in Latin America* (Durham and London: Duke University Press, 2000), 381 at 110. More, see Michel Foucault, *Em Defesa Da Sociedade. Curso No Collège De France (1975-1976)*, trans. Maria Ermantina De Almeida Prado Galvão (2nd edn.; São Paulo: Martins Fontes, [1975-1976] 2010).

[295] Cf. Joan Scott, 'Gender: A Useful Category of Historical Analysis', The American Historical Review, 91/5 (1986), 1053-75, Joan Scott, 'Introduction: Feminism and History', in Joan Scott (ed.), *Feminism and History Oxford Readings in Feminism* (Oxford, New York: Oxford University Press, 1996).

[296] R. W. Connell, *Masculinities* (2nd, 2005 edn.; Berkeley, Los Angeles: University of California Press, 1995) at 71.

[297] See Angela Davis, 'The Meaning of Emancipation According to Black Women', *Women, Race and Class* (New York: Random House, 1983b), Gloria Anzaldúa, *Borderlands / La Frontera - the New Mestiza* (San Francisco, CA: Aunt Lute Books, 1987), Maria Lugones, 'The Inseparability of Race Class and Gender', Kimberlé Crenshaw, 'Mapping the Margins: Intersectionality, Identity Politics, and Violence against Women of Color.', *Stanford Law Review,* 43/1241 (1991b), Audre Lorde, 'Sexism: An American Disease in Blackface', *I Am Your Sister: Collected and Unpublished Writings of Audre Lorde* (2009 edn.; Oxford, New York: Oxford University Press, 1978), Bell Hooks, 'Feminism: A Movement to End Sexist Oppression', *Feminist Theory - from Margin to Center* (Boston: South End Press, 1984), 17-31, Lélia Gonzalez, 'Racismo E Sexismo Na Cultura Brasileira', *Revista Ciências Sociais Hoje, ANPOCS,* (1984), 223-44. Frances W. Titus and Olive Gilbert, *Narrative of Sojourner Truth. A Bondswoman of Olden Time, Emancipated by the New York Legislature in the Early Part of the Present Century, with a History of Her Labors and Correspondence, Drawn from Her "Book of Life"* (Office of the Librarian of Congress, at Washington edn.; Boston: Published for the Author, 1875), Carolina Maria De Jesus, *Quarto De Despejo*, Domitila De Chungara and Moema Viezzer, *"Si Me Permiten Hablar…" Testimonio De Domitila, Una Mujer De Las Minas De Bolivia*, ed. Moema Viezzer (Edición digital edn.; México, D.F.: Siglo XXI Editores, 2005).

object and subject of rights, as well as the right to exterminate. Thirdly, the sexual division of labor, regarding productive and social reproductive work and the modern institutionalization of private and public spheres. Finally, this chapter teases out how the social organization in the form of the (traditional) family was supported by the legal system in regard to property, legal incapacity of women, right to kill, and the controlling of ways of being and coexisting.

Colonial Othering

The emergence of modernity is situated in the late 15th century, a moment in which the colonial enterprise inaugurated a global narrative of modernity. Modernity is here conceptualized as not restricted to a European context. Following Enrique Dussel and Paul Gilroy,[298] the analysis inserts the term within a broader picture of colonial expansion and domination initiated in the so-called Americas (1450 to 1825) and that was then expanded to Africa and Asia (1870 to 1954).[299] In this respect, colonialism is a crucial element in the emergence of a modernity that is situated not only within Europe but whose borders necessarily extend across the Atlantic as well.

In this respect, I conceptualize the "mechanism of othering" as a tool to examine the formation of modern ontologies and political subjectivities. As is well known, modern European rationality, exemplified by the Cartesian and Hegelian theory, reads the world through the binary division of either/or in which to affirm One is necessary to deny the Other. That is to say, the Other represents the condition of existence for the One.[300] The mechanism of othering defines this category in dialectical oppositions and verticalized hierarchies. Human or non-human; civilized or savage; developed or primitive; rational

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[298] Cf. Enrique Dussel, 'Europa, Modernidade e Eurocentrismo', in Edgardo Lander (ed.), *Colonialidade do Saber: Eurocentrismo e Ciências Sociais. Perspectivas Latino-Americanas* (Colección Sur Sur; Buenos Aires: CLACSO, 2005), Paul Gilroy, *O Atlântico Negro: Modernidade e Dupla Consciência*, trans. Cid Knipel Moreira (2nd edn.; São Paulo, Brazil: Editora 34, 2012).

[299] Luiz Felipe Alencastro, *O Trato Dos Viventes – Formação do Brasil no Atlântico Sul* (São Paulo: Companhia das Letras, 2000) at 334.

[300] See Frantz Fanon, *Black Skin, White Masks*, trans. Translated by Richard Philcox (2008 edn.; New York: Grove Press, 1952b), Sylvia Wynter, 'Towards the Sociogenic Principle: Fanon, the Puzzle of Conscious Experience, of "Identity" and What It's Like to Be "Black"', in Mercedes Durán-Cogan and Antonio Gómez-Moriana (eds.), *Collection of Essay National Identity and Sociopolitical Change: Latin America between Marginizalization and Integration* (Minnesota, US: University of Minnesota Press, 1999), David Marriott, 'Inventions of Existence: Sylvia Wynter, Frantz Fanon, Sociogeny, and "the Damned"', *CR: The New Centennial Review,* 11/3 (2012), 45-89, Aparecida Sueli Carneiro, 'A Construção Do Outro Como Não-Ser Como Fundamento Do Ser', (Universidade de São Paulo, 2005), Rita Segato, 'Patriarchy from Margin to Center: Discipline, Territoriality, and Cruelty in the Apocalyptic Phase of Capital', *South Atlantic Quarterly, Duke University Press,* /115:3 (2016), 615-24 at 617.

or irrational; people with or without history; subject or object; man or woman; white or nonwhite; center or peripheric. One is defined necessarily in opposition to the Other.[301]

Besides its ontological and geographic dimensions, the othering also alludes to a new definition of temporality. A linear timeframe placed Europe in the future of civilization, adulthood and development while the invaded territories were inserted into the primitive, infantilized and underdeveloped past. By drawing on such a complex othering mechanism, the 'universal truth' can be situated within categorization of certain bodies as superior and others as inferior; certain temporalities as universal and others as particular; certain knowledge as neutral and scientific and other knowledges as biased and experienced.[302]

The "colonizer" and the "colonized" have been crucial categories in the examination of the colonial mechanism of othering. Decolonial thinkers such as Albert Memmi, Franz Fanon and Aimé Césaire reflected on how both categories were created through the same process of colonization. Not the only is the colonized created by the hierarchical process of racialization and gendering, but also the colonizer. That is to say, the white is also racialized. The man is also gendered. For a better understanding of this point, it might be instructive to unpack Memmi's contribution in tandem with the Silvia Cusicanqui's concepts of the "invader" and the "invaded".

In *Portrait du colonisé, précédé par Portrait du colonisateur* (1957), Albert Memmi theorizes how the formation of the colonized derives directly from the construction of the colonizer. Accordingly, their social and corporeal identity were produced by three components: i) the affirmation of difference between colonizer and colonized; ii) the insertion of the stated differences into a linear time frame version of a version of world history in which one culture would be superior and better developed than the other; iii)

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[301] Regarding the master-slave dialectic, the influential European philosopher Georg Hegel (1770-1831) justified slavery by framing it as something that "awakened more humanity among the Negroes" and as the "basic legal relationship in Africa." In this way, slavery was considered by him as a necessary step for the transition of African people to a "higher stage of development". His system of thought well illustrates the mechanism of othering when defining the Other (in this case, the African people) as not fully human beings, not civilized, while affirming the One (European people) as civilized, developed, rational and therefore fully human beings. Cf. (Georg Wilhelm Friedrich Hegel, 'Race, History, and Imperialism', in Emmanuel Chukwudi Eze (ed.), *Race and the Enlightenment - a Reader* (Massachusetts, USA: Blackwell Publishers, [1857] 1997) at 134-5.).

[302] More, see Lilia Moritz Schwarcz, *Nem Preto Nem Branco, Muito Pelo Contrario: Cor e Raça Na Sociabilidade Brasileira* (São Paulo: Claroenigma, 2012), Thomas E. Skidmore, *Preto No Branco: Raça e Nacionalidade No Pensamento Brasileiro, 1870-1930* trans. Donaldson M. Garschagen (2012 edn.; São Paulo: Companhia das Letras, [1976] 2012), Hofbauer, *Uma História De Branqueamento Ou O Negro Em Questão*. Connell, *Masculinities* at 25.

the exploitation of the colonized for the benefit of the colonizer.[303] Through the interplay of these three elements, the colonizer produces the colonized as the negation and lack of Western modern values (primitive, savage, animal, passionate, irrational, immoral), while simultaneously defining himself as an affirmation of desired values (civilized, human being, developed, rational, moral). In the same logic applied to animals, the colonizer uses these binary hierarchies to justify the exploitation, domination and control of the colonized.

In this regard, Silvia Cusicanqui adopts the categories of "invader" and "invaded" to highlight the complex process of violence that also encompasses resistance. That is to say, the mechanism of othering does not involve only the oppression of the Ones against the inertia of the Others. Rather, it also refers to the struggle and action of those invaded against the occupation, domination and exploitation of the invaders.[304] Therefore, it is relational process of power and resistance, violence and survival.

In this respect, this work adopts the term "enslaved" instead of the most common word "slave". This because the term "slave" presents a more fixed notion of identity, "the slave", as if it was the very constitutive essence of the body. Differently, the term "enslaved" refers to the condition in which black and native bodies were inserted into and resisted from; "to be enslaved". Still regarding the choice of terms, this dissertation adopts the label "indigenous" for lack of a better word to address native communities in Latin America, and for avoiding the terms 'indio' or 'Indian' that carry stigmatizing connotations.[305]

Moreover, the othering mechanism institutionalizes the white-heterosexual-cisgender-man as the center, as the One. Every subjectivity that differentiates from him, the non-white, the non-heterosexual, the non-cisgender, the non-man, is set at the margins, as negativity (non-), as lack.[306] Through this, the colonial regime complexifies the feudal caste system. Instead of the classic tripartite system (cleric, nobles and peasants),

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[303] Albert Memmi, *Decolonization and the Decolonized* (2006 edn.; Minneapolis and London: University of Minnesota Press, 1957) at 70-74.

[304] Silvia Rivera Cusicanqui, *Violencias (Re) Encubiertas En Bolivia* (2010 edn.; La Paz, Bolivia: La Mirada Salvaje, Editorial Piedra Rota, 1993) at 41.

[305] More, see Schwarcz, *Nem Preto Nem Branco, Muito Pelo Contrário: Cor e Raça na Sociabilidade Brasileira* at 24. Susan Kellogg, *Weaving the Past: A History of Latin America's Indigenous Women from the Prehispanic Period to the Present* (Oxford, New York: Oxford University Press, 2005) at 7-8.

[306] More, see Frantz Fanon, *Peau Noire, Masques Blancs* (Paris: Les Éditions du Seuil, 1952a), Frantz Fanon, *The Wretched of the Earth*, trans. Richard Philcox (2004 edn.; New York: Grove Press, 1961), Ato Sekyi-Otu, *Fanon's Dialectic of Experience* (Cambridge, US: Harvard University Press, 1996), Carneiro, 'A Construção Do Outro Como Não-Ser como Fundamento do Ser', Marriott, 'Inventions of Existence: Sylvia Wynter, Frantz Fanon, Sociogeny, and "the Damned"', Judith Butler, 'Violence, Non-Violence: Sartre, À Propos De Fanon', *Actuel Marx,* 1/55 (2014), 12-35.

the colonial regime divides the society into multiple possible articulations between race, gender, sexuality, class, ableism, religion, geographic location, etc. Thus, the mechanism entails multiple lines of differentiation, hierarchization, marginalization, embodiment.[307]

That is to say, instead of a simplistic opposition of 'oppressor' and 'oppressed', colonial modes of domination encompass simultaneous structures that locate bodies in different arrangements. One element connects and integrates the Other, forming and shaping the individual as one entire full being which experiences different layers of social privilege and/or marginalization which cannot be separated. In other words, the separation of class, race, and gender is the outcome of an analytical thought process, which should not be mistaken as a reflection of experience.[308]

Therefore, identity is here understood as a historically situated narrative, a representation; as something contradictory and ambivalent, composed of multiple discourse, silences, desires, social relations and structures. In other words, identity is not a fixed category or a closed totality in itself. Rather, we are composed of multiple identities throughout our lives and within the social relations we are part of.[309]

Body-Territory: Violence and the Formation of Masculinity

The impact of colonialism on the formation of modern masculinity has scarcely been examined by scholars, especially when considering the context of Brazil.[310] Christopher Columbus initiates the so-called 'discovery' of the Americas. His narrative repeatedly emphasizes the beauty of native woman demonstrating that the colonial domination invaded not only territories but female bodies. After two months of his first voyage to America (1492), his letters mention how native women were systematically

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[307] See Mara Loveman, *National Colors. Racial Classification and the State in Latin America* (Oxford, New York: Oxford University Press, 2014) at 46, Ann Laura Stoler, 'Rethinking Colonial Categories: European Communities and the Boundaries of Rule', *Comparative Studies in Society and History,* 31/1 (1989), 134-61.

[308] Cinzia Arruzza, 'From Social Reproduction Feminism to the Women's Strike', in Tithi Bhattacharya (ed.), *Social Reproduction Theory. Remapping Class, Recentering Oppression* (New York: Pluto Press, 2017) at 195.

[309] For more information, see Stuart Hall, *Sin Garantias. Trayectorias Y Problemáticas En Estudios Culturales*, eds Eduardo Restrepo, Catherine Walsh, and Víctor Vich (Popayán: Instituto de Estudios Peruanos; Instituto de Estudios Sociales y Culturales, Pensar. Pontificia Universidad Javeriana; Universidad Andina Simón Bolívar, Sede Ecuador, 2010) at 327-8.

[310] See Mônica Conrado and Alan Augusto Moraes Ribeiro, 'Homem Negro, Negro Homem: Masculinidades E Feminismo Negro Em Debate', *Revista Estudos Feministas,* 25/1 (2017), 73-97 at 85-6. Richard Miskolci, *O Desejo Da Nação: Masculinidade e Branquitude No Brasil De Fins Do XIX* (São Paulo: Annablume, 2013). Luiz Mott, 'Relações Raciais Entre Homossexuais No Brasil Colônia', *Revista Brasileira de História, São Paulo,* 5/10 (março/agosto 1985), 99-122. Jocélio Teles Dos Santos, *Ensaios Sobre Raça, Gênero E Sexualidades No Brasil (Séculos XVIII-XX)* (Salvador: Edufba, 2013).

hiding from the invaders.[311] In the pioneering book *Masculinities* (1995), Raewyn Connell considers the "colonial conqueror" as the first reference point for modern masculinity:

> Apart from a few monarchs (notably Isabella and Elizabeth), the imperial states created to rule the new empires were entirely staffed by men, and developed a statecraft based on the force supplied by the organized bodies of men. The men who applied force at the colonial frontier, the "conquistadors" as they were called in the Spanish case, were perhaps the first group to become defined as a masculine cultural type in the modern sense. The conquistador was a figure displaced from customary social relationships, often extremely violent in the search for land, gold and converts, and difficult for the imperial state to control. Loss of control at the frontier is a recurring theme in the history of empires, and is closely connected with the making of masculine exemplars.[312]

In the same way, on May 1500, the Portuguese Army scrivener Pero Vaz Caminha describes in detail the Portuguese arrival to the land later known as *Brasil*. Apart from a brief description of male nudity, Caminha provides an almost obsessive attention to female sexual organs. Before quoting it at length, I will briefly explain the double meaning of a Portuguese word used to refer to sexual organs. In that period, the term "*vergonha*" meant both "shame" and "sexual organ." I translate the passage providing some elucidation of the double meanings in brackets:

> *E uma daquelas moças era toda tingida de baixo a cima, daquela tintura e certo era tão bem feita e tão redonda, e sua vergonha tão graciosa que a muitas mulheres de nossa terra, vendo-lhe tais feições envergonhara, por não terem as suas como ela.*[313]

> And one of those girls was all dyed from the bottom up; […] and it was so well built and so round, and such a gracious *vergonha* [sexual organ] (that she did not have) [now referring to shame], that many women from our land [Portugal], after seeing such features, would be *envergonhada* [ashamed], for not having as theirs [native women's sexual organ]. [my translation]

Caminha plays with the dubious meaning of *vergonha* to describe native female sexual organ, while comparing them to the European ones. The 'primitive' genitalia were considered by European commentators as "the sign of their 'primitive' sexual appetites".[314] In this respect, the "excitement that naked indigenous woman would cause in Christians" became a major concern for the Jesuits.[315]

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[311] See Susan Midgen Socolow, *The Women of Colonial Latin America* (2 edn.; New York: Cambridge University Press, 2000) at 35, 41.

[312] Connell, Masculinities at 187.

[313] Pero Vaz De Caminha, 'Carta De Pero Vaz De Caminha a D. Manuel I', (Ministério da Cultura. Fundação Biblioteca Nacional Departamento Nacional do Livro, 1500).

[314] Evelynn M. Hammonds, 'Towards a Genealogy of Black Female Sexuality: The Problematic of Silence', in M. Jacqui Alexander and Chandra Talpade Mohanty (eds.), *Feminist Genealogies, Colonial Legacies, Democratic Futures* (New York, London: Routledge, 1997) at 172.

[315] Ronaldo Vainfas, *Trópico Dos Pecados. Moral, Sexualidade E Inquisição No Brasil* (Rio de Janeiro: Editora Campus, 1989) at 22.

Here, I open a short parenthesis to point out that, as a solution to the problem of sexual violence, Jesuits defended the official adoption of a dress code to cover female nudity. An example of the use of dress codes in the making of colonial gender roles can be seen at the *Constituições Primeiras do Arcebispado da Bahia* (First Constitutions of the Archbishopric of Bahia) from 1711. Besides covering nudity, the legislation established different garment codes according to gender by the following provision: "a man dressed as a woman would have to pay 100 crusaders and would be expelled out from the archbishopric of Bahia according to the level of the scandal and the effects of it".[316] Additionally, the later Criminal Code from 1830 was also used to control dress codes based on the provisions regarding "morality and good manners".[317] The newspapers from the period used the terms of "*transformistas*" (transformers) and "*homem-mulher*" (man-woman) to refer to and attack them.[318]

There is a clear attribution of responsibility for the perpetrated violence to the very female body who received it. In other words, the white 'civilized' and 'virile' man had no responsibility for his uncontrollable sexual desire that was 'entirely provoked' by female nudity. Here, violence is 'naturalized' into the domains of masculinity, virility and heteronormativity.

In this respect, this analysis follows bell hooks in challenging the assumption, often held by historians and sociologists, that slavery would have stripped black men of their masculinity since they could not perform as the conqueror, breadwinner and absolute sovereign of the patriarchal family. In colonial times, masculinity became defined by attributes such as strength, virility, vigor, and physical power which were attributes precisely embodied by the enslaved African male who was exploited and feared by the

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[316] See Santos, *Ensaios Sobre Raça, Gênero E Sexualidades No Brasil (Séculos XVIII-XX)* at 62.

[317] Article 280, Criminal Code of Empire, 1830. Examples of this were registered in Rio de Janeiro. In 1853, José Ferreira Pacheco was arrested for being "dressed as woman" in public space; in 1885, Pelinho Freire was reported for receiving men "dressed like women" in his house during the evening. Ibid., at 67. In addition to the national laws, there was also local legislation regarding the issue. For instance, in 1859, the city of Salvador, capital of the state of Bahia, established a penalty of four thousand *reis* (currency of the period) and two days' imprisonment for any freeman or slave employed in a cargo service who was not dressed. The main goal was to establish a systemic order of dress according to the social decorum. During the 1800s, several police records the prisons of men who were described to be "dressed as women", and women "dressed as men". See ibid., at 66. Ibid., at 57.

[318] See "*O alabama*", April 22th 1871. "*Diário do Rio de Janeiro*", "*Jornal da Bahia*", April 25th 1875. Ibid., at 82-83. Most cases analyzed by the social anthropologist Jocélio Teles dos Santos involved the poor – beggars, prostitutes, washerwomen, seamstresses – and non-white people, described as black, *parda*, *cabra*. In addition to the national law, there was also local legislation on the topic. For instance, in 1859, the city of Salvador, capital of the state of Bahia, established a penalty of four thousand *reis* (currency of the period) and two days' imprisonment for any freeman or slave employed in a cargo service who was not dressed. The main goal was to establish a systemic order of dressing according to the social decorum. Cf. Ibid., at 66.

white master. Ergo, as hooks explains, there is no historical record that "masses of black slave men were forced to execute roles traditionally performed exclusively by women", but the other way around, point that we will encounter later when approaching the subject of women workers.[319]

Addressing sexual violence, Hortense Spillers calls attention to how "the sexual violation of captive females and their own express rage against their oppressors did not constitute events that captains and their crews rushed to record in letters to their sponsoring companies, or sons on board in letters home."[320] Yet, the chronicles of the Portuguese did provide a few descriptions of the hierarchical and coercive 'relations' established by invaders with native women. Without any *vergonha* (shame), their narratives make evident the use of coercion as a "normal part of the range of sexual relations," as pointed out by the historian Susan Kellogg.[321]

According to the Portuguese professor Gonçalves Pereira, a supporter of colonization and eugenics, the orientation that dominated the colonization of Brazil was "[Portuguese] soldiers to breed with Native women."[322] Sexual violence constituted a colonial mechanism of domination employed by white men against female bodies and territories.[323] Body-Territory.

Furthermore, the indigenous woman was dispossessed not only by the white invader but also commodified as an exchangeable object between white and indigenous men. The research of historian Susan Socolow reveals that native men "routinely offered unmarried girls to Europeans as a gesture of hospitality or in return for a bauble or two" in Brazil.[324]

Female bodies were also commodified by the Jesuits, who tried to solve the remaining problem of sexual assaults against native women by bringing white young female orphans from Portugal to the colony.[325] This constitutes a "typical patriarchal male

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[319] Hooks, *Ain't I a Woman. Black Women and Feminism* at 21-3.

[320] Cf. Hortense J. Spillers, 'Mama's Baby, Papa's Maybe: An American Grammar Book', *Diacritics, Culture and Countermemory: The "American" Connection. The Johns Hopkins University Press,* 17/2 (1987), 64-81 at 73.

[321] See Kellogg, *Weaving the Past: A History of Latin America's Indigenous Women from the Prehispanic Period to the Present* at 60, Vainfas, *Trópico Dos Pecados. Moral, Sexualidade E Inquisição No Brasil* at 28-30.

[322] Patrícia Ferraz De Matos, *The Colours of the Empire. Racialized Representations During Portuguese Colonialism*, trans. Mark Ayton (European Anthropology in Translation, 4; Portugal and US: Berghahn Books, 2013) at 37.

[323] Davis, *Women, Race and Class* at 24.

[324] Socolow, *The Women of Colonial Latin America* at 36.

[325] Stuart Schwartz, *Sovereignty and Society in Colonial Brazil. The High Court of Bahia and Its Judges, 1609-1751* (Berkeley: University of California Press, 1973) at 30-31, Jeannie Da Silva Menezes, *Sem Embargo De Ser Femea. As Mulheres E Um Estatuto Jurídico Em Movimento No Século XVIII* (Jundiaí, São Paulo: Paco Editorial, 2013) at 148.

thinking about women,"[326] in which women's bodies are reduced to objects with the exclusive purpose of satisfying male need or desire.

Drawing on these historical facts, it is possible to identify an "alliance", or at least a complicity, between colonized and colonizer men.[327] As stressed by Maria Galindo, to recognize such an alliance neither implies that indigenous men are allies of colonialism, nor does it relativize colonial violence against their bodies. Rather, it means to recognize a more complex picture of the colonial hierarchized relations that encompass not only the racialization but also the entangled formation of gender, sexuality, and later class.

On top of that, during the sixteenth century, the clerical and Royal authorities forgave a series of sexual violence cases against native and black women in Brazil.[328] The authorities justified the violence on the basis of the 'natural' and 'intense' sexuality of black and indigenous female bodies.[329]

This type of legitimation is not isolated to the colonial past but remains diffused within popular masculinized imaginaries. An exemplary of it is found in the work of Gilberto Freyre (1900-1987), one of the most referenced Brazilian sociologists. Despite his academic relevance, Freyre repeatedly reinforces the fetishization of black and indigenous women and euphemistically describes sexual violence as a (white male) preference for 'physical love.'[330] This work highlights the importance of interrogating the notion of 'physical love' as well as 'unruled sexual euphoria' and 'sexual freedom' that was

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[326] Hooks, *Ain't I a Woman. Black Women and Feminism* at 101.

[327] See Maria Galindo, *No Se Puede Descolonizar Sin Despatriarcalizar. Teoría y Propuesta De La Despatriarcalización* (La Paz, Bolívia: Mujeres Creando, 2013) at 120, Kellogg, *Weaving the Past: A History of Latin America's Indigenous Women from the Prehispanic Period to the Present* at 132, Lugones, 'Colonialidad Y Genero', Connell, *Masculinities* at 79. Sueli Carneiro, 'Gênero, Raça e Ascenção Social', *Estudos Feministas,* /Ano 3, 2° Semestre (1995) at 550.

[328] See Gonzalez, 'Racismo e Sexismo Na Cultura Brasileira', at 231-32. Schwartz, *Sovereignty and Society in Colonial Brazil. The High Court of Bahia and Its Judges, 1609-1751* at 30, Paulo Rezzutti, *Mulheres Do Brasil: História Não Contada* (Rio de Janeiro: LeYa, 2018) at 39. Vainfas, *Trópico Dos Pecados. Moral, Sexualidade E Inquisição No Brasil* at 49-51.

[329] See Sonia Maria Giacomini, *Mulher e Escrava. Uma Introdução Ao Estudo Da Mulher Negra No Brasil* (Petrópolis/RJ, Brazil: Editora Vozes, 1988) at 66, Heleieth Saffioti, 'The Social Position of Women', *Women in Class Society* (New York: Monthly Review Press, 1978) at 120, Denise Ferreira Da Silva, 'À Brasileira: Racialidade e a Escrita De Um Desejo Destrutivo', *Estudos Feministas, Florianópolis,* 14/1 (2006), 61-83 at 70.

[330] Gilberto Freyre, *The Masters and the Slaves. A Study in the Development of Brazilian Civilization* (Berkeley, Los Angeles, London: University of California Press, [1933] 1986) at 14.

often used to naturalize the colonial context of violence against colonized women and to consolidate an oversexualized commodification of the '*mulata*'.[331]

The term *mulata* has been used to designate the offspring of black and white parents in Brazil.[332] As Grada Kilomba points out, *mulata* (feminine) or *mulato* (masculine) derives from the Portuguese *mula* (mule), "the cross between a horse and a donkey." Additionally, "*mestiçagem*" (in Portuguese) or "*mestizaje*" (in Spanish) has been a central element in Latin American studies, used to name a mixture of indigenous or black and white parentage. Literally, *mestiça* means "'mongrel dog', a cross between two dogs of two different 'races'." The term is commonly used within the Latin American context, whilst other terms such as "*ladina*" or "*chola*" addresses the Guatemalan and Mexican histories, and the Andean countries respectively.[333] In other words, both terms "have an offensive animal connotation and are related to the idea of infertility and prohibition."[334]

Again, this dissertation emphasizes how language had a crucial role in naturalizing violence in colonial Brazil, as exposed by Lélia Gonzalez.[335] Instead of framing the abuses perpetrated by white settlers and masters against indigenous and black enslaved women as 'relationship' or 'physical love', this dissertation addresses it as violence. That is because any insinuation that enslaved women could have any type of decision-making power is, at the very least, unreasonable. Along the same lines, bell hooks explains that:

> Since the white male could rape the black female who did not willingly respond to his demands, passive submission on the part of the enslaved black women cannot be seen as

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[331] More, see Carneiro, 'Gênero, Raça e Ascenção Social', at 546. ibid., at 550. Silva, 'À Brasileira: Racialidade e a Escrita De Um Desejo Destrutivo', 78. Heleieth Saffioti, *A Mulher Na Sociedade De Classes: Mito e Realidade* (Sociologia Brasileira; Petrópolis, Brazil: Vozes, 1976) 384 at 165. Flavia Rios, 'A Cidadania Imaginada Pelas Mulheres Afro-Brasileiras: Da Ditadura Militar À Democracia', in Eva Alterman Blay and Lúcia Avelar (eds.), *50 Anos De Feminismo: Argentina, Brasil E Chile. A Construção Das Mulheres Como Atores Políticos E Democráticos* (São Paulo: Editora da Universidade de São Paulo, 2017) at 229. Hammonds, 'Towards a Genealogy of Black Female Sexuality: The Problematic of Silence', at 172.

[332] See Breny Mendoza, 'La Desmitologización del Mestizaje en Honduras: Evaluando Nuevos Aportes', *Mesoamérica* 42 (2001), 256–78 at 262. Santos, *Ensaios Sobre Raça, Gênero E Sexualidades No Brasil (Séculos XVIII-XX)* at 9-13. Mendoza, 'La Desmitologización Del Mestizaje En Honduras: Evaluando Nuevos Aportes', at 271-72. Gloria Anzaldua had conceptualized the term "*mestiça*" in its positive dimension, as borderline of resistance. See Anzaldúa, *Borderlands / La Frontera - the New Mestiza*. Silva, 'À Brasileira: Racialidade E a Escrita De Um Desejo Destrutivo'.

[333] According to Breny Mendoza, *mestiçagem* encompasses three main processes: i) the imbrication of conquest, racism, sexuality and violence in the modern formation of the categories of masculinity and femininity; ii) the aggressive heteronormativity intrinsically related to the patriarchal and colonial regime; and iii), the condition of illegitimacy or bastardy which profoundly impacted the construction of *mestiça*. Cf. Mendoza, 'La Desmitologización Del Mestizaje En Honduras: Evaluando Nuevos Aportes', at 272. More, see Silvia Rivera Cusicanqui, *Ch'ixinakax Utxiwa. Una Reflexión Sobre Prácticas Y Discursos Descolonizadores* (Buenos Aires: Tinta Limón, 2010) at 70. Néstor García Canclini, 'Culturas Híbridas y Estrategias Comunicacionales', *Estudios sobre las Culturas Contemporáneas. Época II,* III/5 (junio 1997), 109-28.

[334] Cf. Grada Kilomba, *Plantation Memories. Episodes of Everyday Racism* (5 edn.; Münster: Unrast, 2019) at 95.

[335] Gonzalez, 'Racismo E Sexismo Na Cultura Brasileira', at 231-2. More, see Lamonte Aidoo, *Slavery Unseen. Sex, Power, and Violence in Brazilian History* (Durham and London: Duke University Press, 2018) at 5.

complicity. Those women who did not willingly respond to the sexual overture of masters and overseers were brutalized and punished.[336]

As mentioned in the previous chapter, the legal discourse performs a central role in the politics of naming and defining violence as violence. "Legal visibility is directly connected to historical visibility," stated Aidoo in his research on the Brazilian slavery regime.[337]

The legal discourse entails, for instance, the definition of sexual violence that has historically determined which female body would or would not be under legal protection. According to the *Constituições Primeiras do Arcebispado da Bahia* (First Constitutions of the Archbishopric of Bahia) from 1707, "concubinage" was only considered a crime if demonstrated two circumstances: i) keeping a free woman at home; and ii) making her pregnant without being married.[338]

By interpreting the legal text, it is possible to examine the consequences of the use of the term "free woman" to define the crime. That is, it necessarily excludes any enslaved woman from its protection. As a way of counter-writing this provision by highlighting what is silently mentioned, the law says: white man is allowed to keep at home enslaved (indigenous and black) woman (property) and 'make her pregnant' – rape her – without being married. In other words, the legal provision implicitly authorizes the right of white men to rape enslaved women.

Afterwards, sexual violence carried a very problematic and debatable legal definition. Different from the criminal legal principle of defining the crime by the executed action, this crime was again based on the moral definition of the '*honest* woman' as the only possible 'victim' of it. Despite the universalized category of "woman" used by legal discourse, historically, the definition of an honest woman has been predominantly identified in cases against white women, especially the ones from the elite. In the book *Slavery Unseen: Sex, Power, and Violence in Brazilian History* (2018), Lamonte Aidoo exposes how legal terminology allowed "elite white men, from colonial times and for centuries after, to designate which bodies were legally violatable and which were not in ways that exclusively benefited themselves."[339]

Invoking the dialectics of othering, this dissertation argues that, in the making of white masculinity as the only model of manhood, the modern version of white femininity

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[336] Hooks, *Ain't I a Woman. Black Women and Feminism* at 25-6.
[337] Aidoo, *Slavery Unseen. Sex, Power, and Violence in Brazilian History* at 52.
[338] *Constituições Primeiras do Arcebispado da Bahia*, livro V, título XXII, par. 988.
[339] Aidoo, *Slavery Unseen. Sex, Power, and Violence in Brazilian History* at 51.

and womanhood was also created. That is to say, a new image of white womanhood took shape during colonialism and slavery. Contrasting with the witch-hunt against white women who were portrayed as sexual temptresses in Europe, the colonial setting provided the grounds for a new signification of white womanhood. In opposition to features attributed to the colonized (indigenous and black) female bodies, the modern womanhood was defined in terms of virtuosity, purity, innocence, without sexual desires or pleasure, close to the symbolic image of the Virgin Mary.[340] The opposition to the Other constitutes the very condition for the creation of the One.

On top of that, colonial law established barriers for white men to marry black or native women. Accordingly, he could no longer: run for "*quadros burocráticos*" (bureaucratic positions) or political positions in the government; enter into the "*ordens militares de cristo*" (military religious order); integrate the clergy; or associate at certain "*irmandades*" (colonial brotherhoods).[341]

Sewing all these elements together into a historical net, this analysis identifies the formation of masculinity embodied by the white colonial man in the context of conquest, violence, dispossession, domination, and exploitation, that shape and was shaped by legal discourse.

Commodification of Body into Flesh: Justice and Slavery (1 and 2)

This section traces the othering mechanism in its function of commodification and racialization, that articulates together body, law and property. For that, the analysis initially addresses the notion of "just war" as the emergence of the modern discourse on justice, private property, legal subjects, and heritage.[342]

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[340] The anthropologist and legal scholars Sonia Montecino and Marcela Lagarde consider the constitution of Latin American female identity as an outcome of embodying the "*madresposa*" (motherwife) state. According to them, this state was based on the Catholic's virgin Mary myth – in which she was virgin and still gave birth to Jesus – which situates the female body as untouchable and naturally maternal. Cf. Sonia Montecino, 'Identidades De Género En América Latina: Mestizajes, Sacrificios, Y Simultaneidades', in Luz Gabriela Arango (ed.), *Género Y Identidad. Ensayo Sobre Lo Femenino Y Lo Masculino* (Bogotá: Tecer Mundo, 1995) at 193. Marcela Lagarde, *Los cautiverios femeninos. Madres posas, monjas, putas, locas y presas* (Ediciones UNAM, México, 1990). Silvia Federici, *Caliban and the Witch: Women, the Body and Primitive Accumulation* (New York: Automedia, 1998).

[341] Vainfas, *Trópico Dos Pecados. Moral, Sexualidade E Inquisição No Brasil* at 79.

[342] More, see Brenna Bhandar, 'Disassembling Legal Form. Ownership and the Racial Body', in Matthew Stone, Illan Rua Wall, and Costas Douzinas (eds.), *New Critical Legal Thinking. Law and the Political* (London, New York: Birkbeck Law Press, Routledge, 2012) at 113.

Despite the initial absence of a legislation that regulates slavery, native people were captured and forced to work since the beginning of the colonization in Brazil (1500).[343] In 1570, the Portuguese Empire promulgated the first legislation designed to regulate the 'interactions' between Portuguese and native. On the one hand, the law followed the Iberian provisions that were based on the formal prohibition of slavery. On the other hand, it foresaw an exception as defined by the terms of a "just war" against native people, which brings into this analysis the foundations of the legal definition of justice in modernity.

Based on the theory of natural legal order, Portuguese colonizers justified slavery on the basis of domination of the 'superior' and 'civilized' white men over the 'inferior' and 'primitive' native people. Thus, in practice, the broadness of "just war" was mostly interpreted as any action authorized by colonial Empire. That is to say, the formal exception was actually the applicable rule. As a result, the legal discourse was used to sustain the non-recognition of native people as human beings and therefore as subjects of rights, but as bodies that could be commodified into objects.[344]

By 1660, Brazil's economy, based on sugar production, experienced accelerated growth. Similar to the success of the sugar industry, Brazil's natural resources – e.g. gold – were being abundantly exported, re-activating commerce and initiating the industrialization of Europe. The entanglement of extremely arduous labor production, the spread of Western diseases, and the daily violence resulted in the massive extermination of native people.[345]

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[343] Different from the Iberian colonies which adopted the "encomienda" system, Brazil carried out an extensive and continual slavery regime. "*Encomienda*" system refers to a tributary and head-tax systems in which native people received salaries by their labor and had to pay taxes for the colonial Spanish Empire. As a consequence of that, the Spanish crown legally declared freedom from slavery regime to native people, and therefore established the obligation to pay a wage for their labor. Far from ideal, the labor carried out by natives was still in precarious and abusive conditions. Different from that, Brazil had much smaller and more geographically dispersed native communities and therefore did not develop such a tax regime.

[344] See Schwartz, *Sovereignty and Society in Colonial Brazil. The High Court of Bahia and Its Judges, 1609-1751* at 129-31. Arno Wehling and Maria José Wehling, *Direito E Justiça No Brasil Colonial: O Tribunal Da Relação Do Rio De Janeiro (1751-1808)* (Rio de Janeiro: Renovar, 2004) at 480-1. Loveman, *National Colors. Racial Classification and the State in Latin America* at 51. Marilena Chaui, *Manifestações Ideológicas Do Autoritarismo Brasileiro*, ed. André Rocha (Escritos De Marilena Chaui, 2; Belo Horizonte, São Paulo: Autêntica Editora, Editora Fundação Perseu Abramo, 2013b) at 194-200. Aimé Césaire, *Discours Sur Le Colonialisme* (Paris: Reclame, 1950), Fanon, *Peau Noire, Masques Blancs*, Richard Schmitt, 'Racism and Objectification: Reflections on Themes from Fanon', in Lewis R. Gordon, Denean Sharpley-Whiting, and Renée White (eds.), *Fanon: A Critical Reader* (Cambridge, US: Blackwell Publishers, 1996), Achille Mbembe, 'A Universalidade De Frantz Fanon', *Article from the preface of Oeuvres, published by La Découverte. South Africa, Cape Town* (2011).

[345] See Schwartz, *Sovereignty and Society in Colonial Brazil. The High Court of Bahia and Its Judges, 1609-1751* at 139. Aidoo, *Slavery Unseen. Sex, Power, and Violence in Brazilian History* at 13.

Brazil was inserted into the Black Atlantic of slave trade in 1551, and quickly surpassed any other country in the world. It is estimated that from the beginning of 1538 until 1888, approximately four million African people were forcibly brought to Brazil; this is about ten times more slaves than the United States.[346]

In this respect, the Brazilian historian Luiz Felipe Alencastro distinguishes two moments of slavery in Brazil. First, the *escravidão* (slavery 1) in reference to the legal apparatus that formally allows, as an exception, to enslave native people. Second, the *escravismo* (slavery 2) to denominate the productive colonial system responsible for placing slavery into the center of a global connected economy. In other words, slavery was no longer considered a legal exception, but rather the center of the organization of society, politics, demography and economy.[347]

After the 1570s, native people had been completely replaced in mills and plantations by the African slavery workforce. The Spanish Dominican Las Casas and the Portuguese-Jesuit Jesuit Antonio Vieira are considered the two main defenders of indigenous humanity, but also as those who proposed the African slave trade as a 'solution' to liberate native people from the settlers.[348]

Nevertheless, the 'recognition of the humanity' of indigenous people, in practice, did not impact the commodification of their bodies into 'flesh'. Differently, native people started to be considered as an obstacle for the expansion of the agriculture frontiers. The

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[346] Between 1551 and 1870, Brazil acquired 4.029.000 African people approximately, while the entire Spanish America together totalized around 1.662.000. There is no consensus on the total number of the African enslaved entry records in Brazil. The highest number found was presented by the historian Sidney Chalhoub, referring to 4.800.000 African people who would have reached the beginning of the 1850s. The anthropologist and historian Lilia Schwarcz presents the number of 3.600.000 people, which would correspond to a third of the African population that forcibly left its continent of origin for the Americas. Regardless the exact number, my aim is to demonstrate the intensity of slave trade in Brazil, which brought millions of Africans and specifically more Africans than enslaved people from anywhere else in the world. See Alencastro, *O Trato Dos Viventes – Formação Do Brasil No Atlântico Sul* at 69. Chalhoub, *A Força Da Escravidão – Ilegalidade E Costume No Brasil Oitocentista* at 35. Lilia Moritz Schwarcz, *Nem Preto Nem Branco, Muito Pelo Contrário: Cor E Raça Na Sociabilidade Brasileira* (São Paulo: Claroenigma, 2012a) at 24. On the comparison with United States, see Aidoo, *Slavery Unseen. Sex, Power, and Violence in Brazilian History* at 13. On the term "Black Atlantic", see Paul Gilroy, *O Atlântico Negro: Modernidade E Dupla Consciência*, trans. Cid Knipel Moreira (2nd edn.; São Paulo, Brazil: Editora 34, 2012).

[347] Alencastro, *O Trato Dos Viventes – Formação Do Brasil No Atlântico Sul* at 32. Brazilian *escravismo* carries a similar meaning of the European terminology of "racial capitalism" coined by Cedric J. Robinson in 1983. Cf. Cedric J. Robinson, *Black Marxism: The Making of the Black Radical Tradition* (Chapel Hill and London: The University of North Carolina Press, 1983). See also André Barreto Campello, *Manual Jurídico Da Escravidão: Império Do Brasil* (Jundiaí, São Paulo: Paco, 2018) at 58-71.

[348] Two of the most resolute defenders of the indigenous humanity, the Spanish Dominican Las Casas in the sixteenth century and the Portuguese-Jesuit Jesuit Antonio Vieira in the seventeenth century, proposed to their respective crowns the use of the African slave trade in order to liberate native people from the settlers. See Alencastro, *O Trato Dos Viventes – Formação Do Brasil No Atlântico Sul*, Lilia Moritz Schwarcz, 'As Marcas Do Período', in Lilia Moritz Schwarcz (ed.), *História Do Brasil Nação: 1808-2010* (3, A Abertura para o mundo: 1889-1930; Rio de Janeiro and Madrid: Objetiva and MAPFRE, 2012b) at 114.

response to 'this obstacle' was their extermination. In this respect, "*paulista*" was the name given to the military force responsible for "hunting" natives during *escravidão* (slavery 1). In *escravismo* (slavery 2), they became professionals in charge of directly exterminating native people by the request of farmers.[349]

Similar to the figure of *paulista*, the "*capitão-do-mato*" refers to the person officially in charge of chasing, capturing, and killing black enslaved who attempted to escape. In 1699, colonial law not only recognized *capitão-do-mato* as a job title but also ensured them the "right to kill" without facing any legal repercussions.[350]

At that time, Brazil had the highest rate of mortality of black enslaved people in the Americas. For instance, during the first three years of forced slavery, 75 percent of all the enslaved black people died working at plantations, according to Lamonte Aidoo's research. [351]

Political Economy of Extermination

In *Capitalism and Slavery* (1944), Eric Williams argues that the reason for modern slavery was economic and not racial. The features of docility, incapacity, hair type, and skin color were later rationalizations to justify an economic fact. "Colonies needed labor and resorted to Negro labor because it was cheapest and best."[352] In this way, racism is not reducible to "a social evil perpetuated by prejudiced white people,"[353] but refers to a political and legal institutionalization of power. The mechanism of othering institutionalized a white power structure, which associates "white" with "a place of power, of systemic advantage in societies structured by racial domination," as described by bell hooks.[354]

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[349] An example is the episode named "*Guerra dos Bárbaros*" (War of the Barbarians), and also known as War of Recôncavo, War of Açu, or Confederation of Cariris. "*Bárbaros*" (barbarians) was the Ethnocentric target given by colonizers to indigenous communities who were resisting colonization. From 1651 to 1704, native populations from various ethnicities (e.g. *janduís, paiacus, caripus, icós, caratiús* and *cariris*) articulated together to resist the colonial domination at the Recôncavo. Based on the legal discourse of "just war", Portuguese military forces executed one of the largest genocides that completely exterminated all the resisting native communities. See Maria Idalina Pires, 'Guerra Dos Bárbaros – 4 de Agosto de 1699', in Circe Bittencourt (ed.), *Dicionário De Datas Da História Do Brasil* (São Paulo: Contexto, 2007). Alencastro, *O Trato Dos Viventes – Formação Do Brasil No Atlântico Sul* at 336-7.

[350] Alencastro, *O Trato Dos Viventes – Formação Do Brasil No Atlântico Sul* at 345.

[351] Aidoo, *Slavery Unseen. Sex, Power, and Violence in Brazilian History* at 18.

[352] Eric Williams, *Capitalism and Slavery* (Chapel Hill: The University of North Carolina Press, 1944) at 20.

[353] Hooks, *Ain't I a Woman. Black Women and Feminism* at 120.

[354] Lia Vainer Schucman, 'Entre o "Encardido", o "Branco" e o "Branquíssimo": Raça, Hierarquia e Poder na Construção da Branquitude Paulistana', (University of São Paulo, 2012) at 102.

In this regard, native and black bodies were inserted into an economic system of labor that Karl Marx termed "primitive accumulation" and David Harvey updated by calling it "accumulation by dispossession".[355] However, different from Marx, this dissertation joins Rosa Luxemburg in reading the processes of colonial domination and slavery, in the context of the emergence of capitalism, as based in the imperial expansionist process of globalization, and not as previous to it.[356] In this way, the first machines of the industrial revolution were not steam machines, nor the press, nor the guillotine, they were black enslaved bodies.[357]

The process of commodification was called "thingification" by Aimé Césaire (1950), "objectification" by Frantz Fanon (1952), "commodification of Otherness" by bell hooks (1992), and "men-object" and "men-machine" by Achille Mbembe (2013).[358] Similarly, the Brazilian anthropologist Darcy Ribeiro (1968) reflects on the transition from the "government of people" of the feudal period to the "government of things" of colonial capitalism.[359]

In Brazil, several processes were applied to dehumanize the enslaved person, such as: the removal of their personal and family name, status, kin; the prohibition of rituals, religions, mother tongue; or the dispersing of groups, families and communities. In sum,

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[355] Regarding "capitalist regime", Karl Marx is undeniably the most famous and most cited in the capitalism debate. In 1843, Marx explained critical theory as "the self-clarification of the struggles and wishes of the age" (Karl Marx, 'Letter to A. Ruge, September 1843', *Karl Marx: Early Writings* (New York: Vintage Books, 1975) at 209.). However, in his foundational work addressing capitalism, *Das Kapital*, "the struggles and wishes of the age" were regarded as European ones. In order to understand the process of producing capital and the capitalist society, Marx addresses the colonial issue only a few times in Kapital. Colonialism received attention especially in the first volume entitled "The Process of Production of Capital", at the part where he explains the concept of "primitive accumulation". In short, this concept is based on Adam Smith's idea of "previous accumulation" and means "the historical process of divorcing the producer from the means of production. It appears as primitive, because it forms the prehistoric stage of capital and the mode of production corresponding with it" (Cf. Karl Marx, *Capital - a Critique of Political Economy*, ed. Frederick Engels (Online Edition edn., I, The Process of Production of Capital; Moscow: Progress Publishers, 2015) at 507-08.). More, see Karl Marx, *Capital - a Critique of Political Economy*, ed. Frederick Engels, trans. Samuel Moore and Edward Aveling (I, The Process of Production of Capital; Moscow: Progress Publishers, [1867] 2015), David Harvey, *The New Imperialism* (Oxford: Oxford University Press, 2003).

[356] Rosa Luxemburg, *The Accumulation of Capital*, trans. Agnes Schwarzschild (London: Routledge Classics, 2003) at 350.)

[357] Darcy Ribeiro, *O Processo Civilizatório – Etapas Da Evolução Sócio-Cultural. Estudos De Antropologia Da Civilização.* (São Paulo: Editora Vozes/Círculo do Livro, 1978) at 152.)

[358] Cf. Césaire, *Discours Sur Le Colonialisme.* Fanon, *Black Skin, White Masks.* Bell Hooks, *Black Looks: Race and Representation* (Boston: South End Press, 1992) at 21. Achille Mbembe, *Crítica Da Razão Negra*, trans. Sebastião Nascimento (São Paulo: n-1, 2013) at 14, 17. Regarding the relation between slavery and ableism, see Nirmala Erevelles, 'Disability as "Becoming": Notes on the Political Economy of the Flesh', *Disability and Difference in Global Contexts: Enabling a Transformative Body Politic* (New York: Palgrave Macmillan, 2011).

[359] Darcy Ribeiro, *O Processo Civilizatório. Etapas Da Evolução Sócio-Cultural. Estudos De Antropologia Da Civilização* (1978 edn.; São Paulo Vozes/Círculo do Livro, 1968) at 142-54.

they did this to try to completely erase any sign of African memories, heritage or histories.[360]

After surviving the precarious and long-lasting Transatlantic crossing, black people were severely beaten when arriving at the farm. In the mid-eighteenth century, the priest and jurist Ribeiro Rocha described the process:

> The first hosting that they [the masters] do to them [the slaves], as soon as they are bought and appear in their presence is to order to whip rigorously, without any other reason than their own will to do so, and they feel proud of it [...] as teaching them, that only they [the masters] were born to dominate slaves competently, and to be feared and respected.[361]

Thus, as a result of the othering mechanism, the politics of extermination manifests through its physical, psychological, economic, cultural and ontological dimensions of violence. That is to say, by affirming the white-male One as absolute master, it simultaneously denies, commodifies and dehumanizes the Other. Therefore, life and death should not be seen merely as natural phenomena located outside legal and political institutions. On the contrary, the right to be alive and the possibility of being killed were a key part of legal and political decisions of the master.[362]

Again, the discourse used to justify *escravismo* (slavery 2) was based on rhetoric of the 'natural tendency' of black people for farming based on their physical strength. Since they 'lost the war', the slavery at farms and plantations was again grounded on the legal discourse of justice, inferiority and war.[363]

Moreover, the word "slave" or any similar term is not even mentioned at the first Brazilian Constitution (1824), since the law neither recognized enslaved people as "subject of rights" nor as human beings. This silence in the constitutional text is a result of the legal commodification of their flesh into owned objects.

However, in 1830, the first Brazilian legal code, known as the Criminal Code, considered black people as 'subjects' of duties and even established specific crimes only applicable to them, such as the crime of insurrection. The legal paradox of reducing a

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[360] More, see Alberto Da Costa E Silva, 'População e Sociedade', in Lilia Moritz Schwarcz (ed.), *História Do Brasil Nação: 1808-2010* (1, Crise Colonial e Independência 1808-1830; Rio de Janeiro: Objetiva, 2011) at 39. João José Reis and Herbert S. Klein, 'Slavery in Brazil', in Jose C. Moya (ed.), *The Oxford Handbook of Latin American History* (New York: Oxford University Press, 2011) at 193-94. Hooks, *Ain't I a Woman. Black Women and Feminism* at 19. Spillers, 'Mama's Baby, Papa's Maybe: An American Grammar Book', at 73.

[361] Ribeiro Rocha apud Alencastro, *O Trato Dos Viventes – Formação Do Brasil No Atlântico Sul* at 148.

[362] More, see Juliana Moreira Streva, *Corpo, Raça, Poder: Extermínio Negro No Brasil* (Rio de Janeiro: Editora Multifoco, 2018) at 45-6. Foucault, *Em Defesa Da Sociedade. Curso No Collège De France (1975-1976)*.

[363] Cf. Marilena Chaui, *Manifestações Ideológicas Do Autoritarismo Brasileiro*, ed. André Rocha (Escritos De Marilena Chaui, 2; Belo Horizonte, São Paulo: Autêntica Editora, Editora Fundação Perseu Abramo, 2013a) at 200-2. Schwartz, *Sugar Plantations in the Formation of Brazilian Society*, 68-72. Loveman, *National Colors. Racial Classification and the State in Latin America* at 51.

group of people to the status of property, and at the same time recognizing them as subjects of duties, displays one of the many contradictions grounding criminal law in colonial modernity.[364] At *Mama's Baby, Papa's Maybe* (1987), Hortense Spillers reflects on the legal contradictions created for eliminating popular counter-resistances:

> It is, perhaps, not by chance that the laws regarding slavery appear to crystallize in the precise moment when agitation against the arrangement becomes articulate in certain European and New-World communities. In that regard, the slave codes […] are themselves an instance of the counter and isolated text that seeks to silence the contradictions and antitheses engendered by it.[365]

Furthermore, even after the *Lei Feijó* (Slavery Trade Abolition Act) from 1831, Transatlantic traffic continued to be active in Brazil, illegally introducing approximately one million African bodies between 1831 and 1852. That is to say that most of the enslaved black people were illegally maintained as property and forced to work until the last abolition in Western modernity, the Brazilian one in 1888.[366]

As Brenna Bhandar argues, the "legal form of ownership itself is challenged as object of ownership becomes subject who is caught within the contractual relations of appropriation of labour, debt and abstraction of personality, some of the fundaments of property law."[367] In this respect, enslaved people were not allowed to acquire or inherit property in any form. The historian Linda Lewin provides relevant details on the legal denial of succession rights in two volumes' worth of research of colonial inheritance in Brazil during the years of 1750-1821 and 1822-1889. In 1832, a relevant legal decision solidified the legal impossibility for black people to acquire property and set the course of jurisprudence for the next forty years. In Lewin's words:

> Although slaves continued to be the most important class of persons denied succession rights in imperial Brazil, great ambivalence existed over their legal situation. Law denied them the right of acquisition, explaining why historians have not found many wills written by slaves. An important appellate decision, delivered in 1832, sealed the slave's legal inability to acquire property and set the course of law for the next forty years. The court ruled against the succession rights of a natural offspring whose mother was a slave and whose father was her owner. Although the father had recognized his son in his will, and declared him his *ab intestato* successor, he neglected to provide for his son's posthumous manumission in the will. Consequently, his natural offspring remained part of his estate, merely property to be transmitted to heirs. The high court, or *Relação*, of Rio de Janeiro,

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[364] The crime of insurrection was described as the reunion of twenty of more slaves in order to acquire freedom by force. See Wehling and Wehling, *Direito E Justiça No Brasil Colonial : O Tribunal Da Relação Do Rio De Janeiro (1751-1808)* at 481, Monica Duarte Dantas, 'Revoltas, Motins E Revoluções: Das Ordenações Ao Código Criminal', in Monica Duarte Dantas (ed.), *Revoltas, Motins, Revoluções: Homens Livres Pobres e Libertos No Brasil Do Século XIX* (São Paulo: Alameda, 2011) at 9.

[365] Spillers, 'Mama's Baby, Papa's Maybe: An American Grammar Book', at 78.

[366] Sidney Chalhoub, *A Força Da Escravidão. Ilegalidade E Costume No Brasil Oitocentista* (São Paulo: Companhia das Letras, 2012) at 40-1.

[367] Bhandar, 'Disassembling Legal Form. Ownership and the Racial Body', at 114.

ruled that the paternally recognized natural son could not succeed his father because, at the moment of his death, the son had remained a slave.[368]

Thus, instead of being entitled to receive the heritage, the black son actually remained part of the property of his white father. Also, the outlined decision provides evidence of the attempt of enslaved people to access courts and reclaim rights. Yet, enslaved people were not allowed to access the legal system at any level. In practice, they were exceptionally allowed under the representation of a master or "*curador*" (guardian).[369]

In 1871, after the adoption of *Lei do Ventre Livre* (Free Womb Law n. 2.040),[370] legislators changed the previous interpretation in which enslaved people could not acquire property. As Lewin explained: "[only] for the last seventeen years of slavery's existence, [did] Brazilian slaves possessed the right to *peculium* (property) and, therefore, to succeed to property as forced heirs or to be the beneficiaries of a bequest. Nevertheless, they could not make wills".[371] Ergo, inheritance was a legal tool that institutionalized the white structure of power.[372]

Regarding the role performed by judges in institutionalizing the bureaucratic regime of colonial structures, this dissertation addresses the research carried out by Stuart

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[368] Linda Lewin, *Surprise Heirs: Illegitimacy, Patrimonial Rights, and Legal Nationalism in Luso-Brazilian Inheritance, 1750–1821* (1; Stanford, California: Stanford University Press, 2003) at 21.

[369] In this regard, Luiz Gama (1830-1882) was the first black lawyer in Brazil who had experienced slavery in his own skin, had a significant performance as journalist and advocate of slaves. Gama was one of the few black Brazilian intellectuals of the nineteenth century, and the only who experienced slavery in his own skin, having been enslaved at the age of ten. Albeit his courageous and militant performance in courts, his name is still rarely mentioned in the Brazilian classic abolitionist literature. Another example of struggle against colonial barriers to access justice is presented by the case of Maria, black enslaved woman from Recife (city in northeastern Brazil). In 1881, Maria sent a letter to the secretary of the "*Sociedade Nova Emancipadora*" (New Emancipating Society) in order to have the rights of her daughters – born after the Law of the Free Womb – respected. In the letter, she exposed: "[...] for a enslaved person like me there is neither a holy day nor a Sunday when I can leave"; "Lord, you can not imagine how it is to live in this house, watching my master beat my three daughters and call them slaves, without being able to do anything". Cf. Luiz Da Gama, 'No Álbum Do Meu Amigo J.A. Da Silva Sobral', in Ligia Fonseca Ferreira (ed.), *Com a Palavra, Luiz Gama: Poemas, Artigos, Cartas, Máximas* (São Paulo Imprensa Oficial, 2011). More, see Ligia Fonseca Ferreira, 'Introdução: As Vozes Múltiplas De Luiz Gama', ibid. (São Paulo) at 17, Celia Maria Marinho De Azevedo, *Onda Negra, Medo Branco: O Negro No Imaginário Das Elites – Século XIX* (Rio de Janeiro: Paz e Terra, 1987) at 175-76. Camillia Cowling and Celso Castilho, 'Bancando a Liberdade, Popularizando a Política: Abolicionismo E Fundos Locais De Emancipação Na Década De 1880 No Brasil', *Revista Afro-Ásia, UFBA, /*47 (2013) at 1-2, Thomas E. Skidmore, *Brazil: Five Centuries of Change* (2nd Edition edn.; New York and Oxford: Oxford University Press, 2010) at 50. Wehling and Wehling, *Direito E Justiça No Brasil Colonial: O Tribunal Da Relação Do Rio De Janeiro (1751-1808)* at 482.

[370] The aforementioned law stated that enslaved offspring born after the law would be free. However, below such provision there was also the possibility of the slaveholder decide to not receive the compensation offered by the government, resulting in the enslavement of the offspring – specific legal category named "*ingênuo*" (naïve) - until the age of twenty-one. The result was the complete inefficiency of the prevision, since in practice the "freed" child was still treated as a provisional enslaved. See Skidmore, *Preto No Branco: Raça E Nacionalidade No Pensamento Brasileiro, 1870-1930* at 52.

[371] Lewin, *Surprise Heirs: Illegitimacy, Patrimonial Rights, and Legal Nationalism in Luso-Brazilian Inheritance, 1750–1821* at 22.

[372] More, see ibid.

Schwartz at the book *Sovereignty and Society in Colonial Brazil: The High Court of Bahia and its Judges, 1609-1751* (1973). According to the historian scholar, most of the "*desembargadores*" (judges) also owned slaves and some were even actively taking part in the slave trading market. His work concludes that "the interaction of the institutional structure of magisterial government, the nature and functions of the bureaucracy, the career patterns and objectives of the bureaucrats, and the interests of various sectors of colonial society formed a political system of judicial power."[373] As a result, the predominance of white men in the composition of the legal profession, from the magistrate to the public ministry, deeply impacted and still impacts legal thinking, norms, and decisions.[374]

Women Workers and the Making of Housewives

The division of labor has been perceived as the main sphere for analyzing the articulation between race, gender and class within gender and women's studies in Brazil,[375]. Contesting the conventional notion of 'natural' or 'maternal duties' attributed to women's reproductive labor, this dissertation considers that a larger and more complex theoretical contribution can be made by interconnecting colonialism, the sexual division of labor and the rise of capitalism. This section aims to demonstrate the role of labor in designating the public and political sphere to white men and, consequently, impacting the access of women to political positions and public visibility.

Domestic and reproductive labor constitute a circular vulnerability that historically keeps women, especially indigenous and black women, in poorly- or non-paid work, isolated within the private realm, away from public visibility and institutional

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[373] Cf. Ibid., at 248. Such a white power structure pervaded colonial times up until today. For instance, the National Council of Justice from Brazil, in a census published in 2014, indicated in its cadres the presence of 1.4% of black people (men and women), in a self-declaration research. Still today, the instances of political power are extremely masculinized and white. More, see Vera Lúcia Santana Araújo, 'Em Busca Da Coexistência: Um Giro Negro Sobre O Feminismo, O Pluralismo E a Democracia', in Roberto Parahyba De Arruda Pinto, Alessandra Camarano, and Ellen Mara Ferraz Hazan (eds.), *Feminismo, Pluralismo E Democracia* (São Paulo: LTr, 2018) at 359-60. Olivia Santana, 'Feminismo, Pluralismo E Democracia', in Roberto Parahyba De Arruda Pinto, Alessandra Camarano, and Ellen Mara Ferraz Hazan (eds.), *Feminismo, Pluralismo E Democracia* (São Paulo: LTr, 2018) at 256.

[374] Examples of the argument can be perceived by the cases of Thereza Grisólia Tang (1922-2009) and Luislinda Valois. Tang was the first woman to become a judge and adjudicator in Brazil. She was responsible for raising questions about how to improve laws to ensure better conditions for incarcerated women. Granddaughter of an enslaved person, Valois was the author of the first conviction for racism in Brazil. More, see Rezzutti, *Mulheres Do Brasil: História Não Contada* at 185-6.

[375] See Cristina Bruschini, "Trabalho feminino: trajetória de um tema, perspectiva para o futuro", *Estudos Feministas*, v. 2, n. 3, 1994, apud Magda Neves, "Anotações sobre gênero e trabalho", *Cadernos de Pesquisa*, v. 43, n. 149, 2013, p. 405, apud Flávia Biroli, *Gênero e Desigualdades. Limites Da Democracia No Brasil* (São Paulo: Boitempo, 2018b) at 24-25.

politics, and in a highly vulnerable position, particularly in regard to physical and sexual assaults. [376]

Already in the book *Origin of the Family, Private Property and the State* (1884), Friedrich Engels highlights that the first division of labor was the one carried out between man and woman and is considered by the author to be the first class opposition and oppression in history.[377] Thus, when addressing the history of class formation, we are unavoidably speaking of women's history.[378] However, in contrast to the readings of Silvia Federici and Carole Pateman that problematically put in the same package the labor conditions of slaves and European wives,[379] the section maps the nuances and differences regarding the racialization and engendering definitions of work, often masked by the general category of class.[380] For that, the analysis frames the "*casa grande*" (masters' house) as the territory where white, black and native women came together, and yet, entirely apart.

Before starting to the outlined examination, it is important to initially define the notion of "reproductive labor" or "social reproduction". It refers to the gestation, childbirth and breastfeeding, as well as tasks related to housekeeping and caring labor regarding, commonly but not only, children and elderly people. It includes not only the domestic tasks that make daily life possible (cooking, cleaning, nursing), but also the production (birthing) of the workforce, which is commonly put under the blanket term of 'female biological destiny'. As argued by Mariarosa Dalla Costa and Selma James, "the commodity they [women] produce, unlike all other commodities, is unique to capitalism: the living human being – 'the laborer himself.'"[381] In this sense, the notion problematizes how the labor dispensed to produce people has been "analytically hidden by classical economists and politically denied by policy makers".[382] All in all, the concept embraces

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[376] More, see Flávia Biroli, *Gênero e Desigualdades: Os Limites Da Democracia No Brasil* (São Paulo Boitempo, 2018a) at 66. Clara Araújo e Maria Celia Scalon, "Gênero e a distância entre a intenção e o gesto°, *Revista Brasileira de Ciência Política,* v. 21, n. 62, 2006, p. 45-68; Clara Araújo e José Eustáquio Diniz Alves, "*Impactos de indicadores sociais e do sistema eleitoral sobre as chances das mulheres nas eleições e suas interações com as cotas*", *Dados*, v. 50, n. 3, 2007, p. 535-77. Célia Regina J. Pinto, "Feminismo, história e poder", *Revista de Sociologia e Política,* v. 18, n. 36, 2010, p. 22.

[377] Friedrich Engels, *The Origin of the Family, Private Property, and the State* (London: Penguin Group, [1884] 2010) at 174.

[378] Federici, *Caliban and the Witch: Women, the Body and Primitive Accumulation* at 14.

[379] Ibid., at 120, Carole Pateman, *The Sexual Contract* (Stanford, California: Stanford University Press, 1988) at 219.

[380] See Davis, *Women, Race and Class.*

[381] Mariarosa Dalla Costa and Selma James, *The Power of Women and the Subversion of the Community* (3 edn.; London: Falling Wall Press, 1972) at 10.

[382] Tithi Bhattacharya, 'Introduction: Mapping Social Reproduction Theory', in Tithi Bhattacharya (ed.), *Social Reproduction Theory. Remapping Class, Recentering Oppression* (London: Pluto Press, 2017) at 2.

the isolated, invisible, repetitive, exhausting tasks required for the maintenance of daily living.[383]

Drawing on that, the analysis moves to a historical-based approach to the colonial division of labor. For that, the examination begins with the native women, then the conditions of black female enslaved bodies, and finally, the white mistress.

Regarding the colonial impacts of the colonial division of labor on indigenous women's lives, this work outlines two interconnected features from the historical findings presented by Susan Kellogg in the work, *Weaving the Past* (2005). As a consequence of the colonial male-centered system, indigenous women were drastically disconnected from the social and political roles within their communities. Besides the social devaluation, their activities were constrained to the domestic tasks, which excluded them both in the private sphere of the *casa grande* as well as inside their own houses. This territoriality configured an isolated space where violence and precarity were disguised, the labor unpaid, and their bodies isolated from other workers.[384]

Moving the analysis on, black enslaved women were submitted not only to work in the plantations alongside men, but also forced to carry three additional roles: i) domestic labor; ii) child rearing; and iii) sexual object.

The word "mother" was exclusively used to designate the relationship between a white woman and her offspring. The only time that a black enslaved woman was recognized as something similar to a 'mother' was when she was called "*mãe-preta*" (black mother) or "*ama-de-leite*" (breastfeeding), terms that were exclusively used in the context of the raising of the white masters' offspring.[385]

The general term "breeder" can be invoked in reference to *mãe-preta* in two interconnected forms: the non-human relation between animals and the objectification of animals for human wealth and profit.[386] However, different from the United States, where the "breeding" of black slave women was perceived by white slaveholders as economically

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[383] More, see Silvia Federici and Arlen Austin, *The New York Wages for Housework Committee 1972-1977. History, Theory and Documents*, eds Silvia Federici and Arlen Austin (New York: Autonomedia, 2017), Silvia Federici, *Revolution at Point Zero: Housework, Reproduction and Feminist Struggle* (New York and California: Common Notions and PM Press, 2012b), Davis, *Women, Race and Class*. Federici, *Caliban and the Witch: Women, the Body and Primitive Accumulation* at 14, Cinzia Arruzza, Tithi Bhattacharya, and Nancy Fraser, *Feminism for the 99%. A Manifesto* (London: Verso Books, 2019), Davis, *Women, Race and Class* at Chapter 13.

[384] According to Kellogg, prior to colonization and throughout Latin America, there were multiple indigenous forms of gender perception, depending on which area and community it was. However, during and after colonization, gender ideologies were violently homogenized by European standards across the entire region. See Kellogg, *Weaving the Past: A History of Latin America's Indigenous Women from the Prehispanic Period to the Present* at 78, 132, 61.

[385] Giacomini, *Mulher E Escrava. Uma Introdução Ao Estudo Da Mulher Negra No Brasil* at 34, 50.

[386] Davis, *Women, Race and Class* at 10.

profitable,[387] in Brazil, the reproduction of enslaved women was considered anti-productive. As published in the journal *A Liberdade dos Ventres* (1880), a Brazilian slave master mentions that "it was not worth the effort to raise them [slave's offspring] since only after 16 years they will give equal service."[388]

In any case, motherhood and maternity were not within the sphere of personal choice for black women but only regarded in terms of their relation to economic production. During slavery, the offspring of a black woman was not perceived as belonging or connected to the mother, but rather as being the property of the white slaveholding family. In this regard, kinship loses meaning when talking about the black family, "since it can be invaded at any given and arbitrary moment by the property relations".[389]

Moreover, the fact that the black woman was pregnant did not diminish the amount of work demanded of her by the plantation. In Giacomini's words:

> *as negras pejadas e as que amamentavam não eram dispensadas da enxada: duras fadigas impediam em algumas o regular desenvolvimento do feto, em outras minguava a secreção do leite, em quase todas geravam o desmazelo pelo tratamento dos filhos, e d'ahi as doenças e a morte à pobres crianças.* [390]

> the pregnant black women and the ones who were already breastfeeding were not exempt from the hoe: hard fatigues hindered the regular development of the fetus in some cases, in others it harmed the secretion of milk, almost all of them were prevented from caring for their children, which resulted in diseases and the deaths of the poor children. [my translation]

On top of working at the plantations, performing domestic tasks, and producing workers, black women were also sexually assaulted by white masters.[391] As previously argued, sexual violence against black woman constituted a frequent practice under the regime of slaver and was even authorized by law. Indeed, the private territory of *casa grande* constituted a convenient sphere to render invisible various sorts of violence.

Therefore, the assumption that the work inside *casa grande* automatically gave preferential treatment for enslaved black women is here challenged. The argument that domestic enslaved women were less subject to physical hardships than the field workers dismisses that, due to the spatial proximity to their mistresses and masters, domestic

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[387] Hooks, *Ain't I a Woman. Black Women and Feminism* at 16, 39.
[388] Giacomini, *Mulher E Escrava. Uma Introdução Ao Estudo Da Mulher Negra No Brasil* at 24.
[389] Spillers, 'Mama's Baby, Papa's Maybe: An American Grammar Book', at 74.
[390] Giacomini, *Mulher E Escrava. Uma Introdução Ao Estudo Da Mulher Negra No Brasil* at 24.
[391] Ibid., at 62.

workers were isolated from other workers and more vulnerable to sexual assault, cruelty and torture.[392]

Last but not least, the white mistress was in charge to govern the domestic tasks at *casa grande*. In the journal "*O Mentor das Brazileiras*" (1829), the description of her role was "a woman should only know about the domestic regime of a house, which consists in managing the slaves, in fixing the clothes, and to care about your ornaments."[my translation][393] Calling into question the male description of the female role, one of the pioneers in the debate of class and gender within the Brazilian social sciences, Heleieth Saffioti stresses that the activities performed by white women covered a much wider range than what is usually referred to as 'domestic chores'. In her words, the mistress "not only oversaw the work of the slaves in the kitchen; she watched over the spinning, weaving, and sewing; inspected the lace-making and embroidery; and supervised the preparation of meals, the tending of the orchards and garden, and the care of the children and domestic animals."[394]

Moreover, the confinement inside the narrow sociocultural universe of *casa grande* make white women even more conservative than men. This can be contextualized within the frame that "the sons, not the daughters, of the manor who received their education in Europe, and who were the political and social innovators, even introducing changes in feminine fashion." That is to say, the isolation was not only geographically but also cultural, social and political.[395]

On the one hand, since the seventeenth century, the Portuguese Crown ensured that all the political offices were formed only by *"principais da terra"* (colonial nobles), which meant white men. Thus, the fact that every public office position was exclusively occupied by men who were mostly white was surely not a coincidence.[396]

On the other hand, the work attributed to women was not even acknowledged as 'work' by society at large. When done inside the house, it was named as 'housekeeping'

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[392] Hooks, *Ain't I a Woman. Black Women and Feminism* at 22-4, Giacomini, *MulhereE Escrava. Uma Introdução Ao Estudo Da Mulher Negra No Brasil* at 80-1.

[393] Translation from the original text in Portuguese: "... huma senhora nada mais deve saber que o regimem doméstico de huma casa, o qual consiste em administrar os escravos, arranjar huma caixa de roupa, cozer huma camisa, e tratar de seos enfeites..." (*O Mentor das Brazileiras,* 7/12/1829). Giacomini, *Mulher E Escrava. Uma Introdução Ao Estudo Da Mulher Negra No Brasil* at 74.

[394] Saffioti, 'The Social Position of Women', at 124-25. More, see Biroli, *Gênero e Desigualdades. Limites Da Democracia No Brasil* at 24-25.

[395] Saffioti, 'The Social Position of Women', at 127.

[396] Luisa Rauter Pereira, *O Povo Na História Do Brasil. Linguagem E Historicidade No Debate Político (1750-1870)* (São Paulo: Paco, 2016) at 105.

or 'housewifery'. When done outside, it would be a precariously paid or even unpaid job of the "*empregada doméstica*" (domestic servant).

Despite the different positionalities of native, black and white women, the colonial division of labor submitted all of three to the structural devaluation of reproductive work and the devaluation of the social position of women.[397] Colonial regime considered women as the 'communal goods', which means that "their bodies and labor are mystified as personal services and/or natural resources. They are a territory that can be utilized because they guarantee social reproduction and provide common services."[398]

Thus, a closer examination of domestic labor revealed the structures which fomented the isolation of women into the private and domestic spheres. Moreover, the definition and hierarchization of productive and reproductive work leads us to the last section of the chapter concerned with the social structures of family.

(Traditional) Family

Pátria (fatherland) has its etymological roots in the Latin word, *pater* (father), which does not refer to the father as parent, but to the "legal figure of father", as argued by Marilena Chaui.[399] Following her analysis, *pater* refers the owner of *patrimonium* (patrimony), the figure of the *senhor* (master), the owner of the private property, the white men in colonial Brazil. Still in the Latin semantic, the power of the father towards the *domus* (house) is the *dominium*. The things and people who were under the father's *dominium* were named *familia* (family). During slavery and colonialism, patrimony explicitly confers the power of life and death over enslaved and colonized subjects, who were considered to be objects.[400]

In this regard, it is hard to overestimate the importance of family and primary relations in colonial Brazil. Family has been not only the primary instrument of

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[397] More, see Segato, 'Patriarchy from Margin to Center: Discipline, Territoriality, and Cruelty in the Apocalyptic Phase of Capital', at 147-8, Federici, *Caliban and the Witch: Women, the Body and Primitive Accumulation* at 94. Costa and James, The Power of Women and the Subversion of the Community at vii.

[398] Verónica Gago, *Neoliberalism from Below. Popular Pragmatics and Baroque Economies*, trans. Liz Mason-Deese (Durham and London: Duke University Press, 2017) at 91-92, Federici, *Caliban and the Witch: Women, the Body and Primitive Accumulation* at 97.

[399] Chaui, *Manifestações Ideológicas Do Autoritarismo Brasileiro* at 156.

[400] Similarly, the French philosopher Michel Foucault conceptualizes sovereign power. Cf. Foucault, *Em Defesa Da Sociedade. Curso No Collège De France (1975-1976)*.

socialization but also a central mechanism of power rooted in the complex network of kinship relations and property ownership in the colony.[401]

In this final topic of the chapter, I suggest that the formation of the colonial family was based on the gendered accumulation of property centralized in the figure of the white man. Legal discourse was central to the contemporary forms of dispossession, accumulation, domination and violence, as well as in institutionalizing heteronormativity, monogamy and the patriarchal family.

From White Man to White Man: Property Ownership

The patriarchal control of the female body should not be reduced to a misogynic fantasy. Rather, it forms part of the very basis of modern law. Jealousy, possession, control, ownership, authoritarianism and violence are all part of the same historical fabric sewn together by legal property and legal capacity. In fact, property ownership becomes a central element that simultaneously relies upon and constitutes legal subjectivity. In this way, the section reinforces how "property lies at the basis of the legal form."[402]

At the time of the colonial invasion of the Americas, property was established exclusively for and by white men. That is to say, the colonial regime of property was transmitted through the male lineage, from the father to the son or to the daughter's husband. The transition from white man to white man brings to the analysis the colonial institutionalization of family.[403] As a result of the legal guaranteed concentration of

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[401] See Schwartz, *Sovereignty and Society in Colonial Brazil. The High Court of Bahia and Its Judges, 1609-1751* at 182-3. Socolow, *The Women of Colonial Latin America* at 66-67, Juan Andreo, 'La Historia De La Familia En América Latina Hoy: "Otras Historias"', in Sara Beatriz Guardia (ed.), *Escritura De La Historia De Las Mujeres En América Latina. El Retorno De Las Diosas* (Peru: Centro de Estudios La Mujer en la Historia de América Latina CEMHAL, 2005) at 81. Wehling and Wehling, *Direito E Justiça No Brasil Colonial: O Tribunal Da Relação Do Rio De Janeiro (1751-1808)* at 499.

[402] Bhandar, 'Disassembling Legal Form. Ownership and the Racial Body', at 116-7.

[403] This regime was considered as a general custom of the Kingdom and presented singularities with other European legal regimes since it was used for limiting women's power in the patrimonial disposition. More, see Bhandar, 'Disassembling Legal Form. Ownership and the Racial Body', at 115. Sandra Lauderdale Graham, 'Servants and Masters in Rio De Janeiro: Perceptions of House and Street in the 1870s', in Elsa M. Chaney and Mary Garcia Castro (eds.), *Muchachas No More. Household Workers in Latin America and the Caribbean* (Philadelphia: Temple University Press, 1989) at 69-70. Menezes, *Sem Embargo De Ser Femea. As Mulheres E Um Estatuto Jurídico Em Movimento No Século XVIII* at 128-29. Such a context has also been identified in Europe during the same time period. Federici, *Caliban and the Witch: Women, the Body and Primitive Accumulation* at 24. Denise Ferreira Da Silva and Paula Chakravartty, 'Accumulation, Dispossession, and Debt: The Racial Logic of Global Capitalism—an Introduction', *American Quarterly,* 64/3 (2012), 361-85 at 362. Federici, *Caliban and the Witch: Women, the Body and Primitive Accumulation* at 102-5, 98.

property for men, marriage became a profitable opportunity for the white man to accumulate property, wealth and get inserted into the colonial aristocracy.

This point is presented by the examination conducted by Schwartz in Brazil considering the period of 1609 to 1751, namely *Sovereignty and Society in Colonial Brazil. The High Court of Bahia and Its Judges* (1973). By analyzing the power dynamics of foreigner magistrates who immigrated to Brazil, the scholar identifies marriage as one of the major methods for upgrading their social influence in the country.[404]

Thus, the analysis of (heterosexual) marriage encompasses a much broader picture than moral and religious codes. It directly implicates the role of law in concentrating property into the hands of white men while organizing the colonial society according to the form of a patriarchal family.

The Making of Heteronormativity

This section excavates how the legal institutionalization of heteronormativity was carried out through the criminalization of sodomy as well as by the legal conditions of marriage and family. Thus, heterosexuality is examined here within the frame of institutional structures of colonial law, and therefore below the common narrative of personal preference or individual sexual orientation.[405]

Even though the terms "heterosexuality" and "homosexuality" only appeared in the late nineteenth century,[406] this work sustains that it is still possible to identify the role of law in defining heterosexuality as far back as the fifteenth century. Both Portuguese code from 1446 (*Ordenações Afonsinas*) and later Brazilian law (*Constituições Primeiras do Arcebispado da Bahia*) considered homosexual practice as the gravest offense and the only crime punishable with bonfire.[407]

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[404] See Schwartz, *Sovereignty and Society in Colonial Brazil. The High Court of Bahia and Its Judges, 1609-1751* at 182-83, 339. Menezes, *Sem Embargo De Ser Femea. As Mulheres E Um Estatuto Jurídico Em Movimento No Século XVIII* at 128.

[405] More, see Monique Wittig, 'The Straight Mind', in Russell Ferguson et al. (eds.), *Out There: Marginalization and Contemporary Cultures* (Cambridge, Massachusetts: MIT Press, 1978), 51-57, Adrienne Rich, 'Compulsory Heterosexuality and Lesbian Existence', *Women's History,* 15/3 (Autumn 2003 1980), 11-48, Jill Radford, 'Introduction', in Diana Russell and Jill Radford (eds.), *Femicide. The Politics of Woman Killing* (New York, Toronto, Oxford: Twayne Publishers, Maxwell Macmillan International, 1992) at 8, Ochy Curiel, *La Nación Heterosexual* (Bogotá: Brecha Lésbica and en la frontera, 2013).

[406] Aidoo, *Slavery Unseen. Sex, Power, and Violence in Brazilian History* at 58.

[407] Vainfas, *Trópico Dos Pecados. Moral, Sexualidade E Inquisição No Brasil* at 205-07.

Homosexual intercourse between men was criminalized and received the name of "sodomy". As a consequence of the phallocentric perception of sexuality, it was only later that homosexual practices between women was also recognized as possible and received the legal name of "improper sodomy." Improper because, according to the male legislators of the time, the practices between women could not properly involve penetration that was the very definition of sexual act.[408] Another consequence of the male-centered criminalization of homosexuality is that the Lusitanian Inquisition had scarcely ever judged cases of "lesbianism." In this regard, there were only two registered cases in which women were punished (condemned to deportation) by the Court in Lisbon up until the eighteenth century. By contrast, there were very many cases of sodomy reported from the Portuguese Inquisition carried out in Brazil between 1591 and 1620. So many that they even created special terms to refer to the different skin colors of the agent of "sodomy": "*somitigos*" (white), "*tibira*" (native), and "*jimbanda*" (black).[409]

In a complementary manner, the institutionalization of the colonial family also had a central role in naturalizing heteronormativity. The concentration of property, and therefore economic and political power, in the hands of white men undeniably impacted female subjectivity, social roles and desire. By this I mean, colonial law not only institutionalized marriage but defined the heterosexual-monogamous-patriarchal family as the only way to form part of modern society.

In addition to the legal denial of property rights, women were also perceived as legally incapable or, in Latin terms, as "*imbecilitas sexus, inconstantia anima*" (*Ordenações Filipinas* 1603, II, 35, 4). Like a child, women demanded legal tutelage, that is to say, male tutelage. In other words, for surviving in the context of colonial dispossession, white women had to pursue marriage as their true career, not only in regard to the impossibility of supporting themselves without property but also due to their legal incapacity.

Their status of incapacity did not allow them to occupy public positions, vote, contract services or even go to court without the permission of a man.[410] Otherwise, a

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[408] Santos, *Ensaios Sobre Raça, Gênero E Sexualidades No Brasil (Séculos XVIII-XX)* at 50, 74, Aidoo, *Slavery Unseen. Sex, Power, and Violence in Brazilian History* at 68, Ligia Bellini, *A Coisa Obscura. Mulher, Sodomia E Inquisição No Brasil* (São Paulo: Brasiliense, 1987) at 39.

[409] See Vainfas, *Trópico Dos Pecados. Moral, Sexualidade E Inquisição No Brasil* at 207-08. Mott, 'Relações Raciais Entre Homossexuais No Brasil Colônia', at 102. Santos, *Ensaios Sobre Raça, Gênero E Sexualidades No Brasil (Séculos XVIII-XX)* at 77.

[410] Nevertheless, contrary to stereotypes of female passivity, single, married or widowed women addressed institutional spheres, requiring legal instruments to obtain heritage from their parents, husbands and brothers. This is what Jeannie Menezes' research demonstrates, situated in Pernambuco (state in northeast Brazil) in the timeframe of the eighteenth century. See Menezes, *Sem Embargo De Ser Femea. As Mulheres E Um Estatuto Jurídico Em Movimento No Século XVIII* at 128-29.

non-married white woman would end up in a convent, together with female orphans who did not have tutelage either from father or husband. In some cases of temporary absence from the partner or father, even married women had to stay in convents. While this was an imposition for white women, the convent was not even an option for naive nor black women.[411]

In the book *Trópico dos Pecados* (1989), the Brazilian historian Ronaldo Vainfas demonstrates how legal marriage was used as a major tool of "*aculturação*" (cultural assimilation) by native people during the colonization. Accordingly, marriage was defended as a way to transform indigenous people into moral and Catholic beings.[412]

However, white men historically refused to marry non-white women, commodifying them into sexual objects and property, as previously argued in this chapter. *Mestiça* refers to the offspring resulting from the violence of *mestiçagem*, and has been associated with illegitimacy and dishonor. This is because, the lighter skin of the offspring indicated the 'unrecognized' father, which was the white master or his son. In such a context, the *mestiça* could be perceived as the embodiment of the legacy of colonial violence. Her black mother was not only the biologic reproducer but the only economic and social support. Outside of the white middle or upper class setting, the institutionalization of the family through marriage was neither common or accessible.[413]

Monogamy and the Right to Kill

Similar to heterosexuality, monogamy is here contextualized within the structural and institutional delineations of the colonial law. The punishment for adultery was delineated by law (*Ordenações Filipinas*) in 1603, which established the male right to discipline, punish and kill the wife in case of adultery.[414]

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[411] See Asunción Lavrin, 'Female Religious', in Susan Migden Socolow and Louisa Schell Hoberman (eds.), *Cities & Society in Colonial Latin America* (Albuquerque: University of New Mexico Press, 1986) at 176. Rezzutti, *Mulheres Do Brasil: História Não Contada* at 40, 71-2. Menezes, *Sem Embargo De Ser Femea. As Mulheres E Um Estatuto Jurídico Em Movimento No Século XVIII* at 112-14, 31-32. Saffioti, 'The Social Position of Women', at 164.

[412] Vainfas, *Trópico Dos Pecados. Moral,* Sexualidade e Inquisição No Brasil at 22, 80.

[413] Montecino, 'Identidades De Género En América Latina: Mestizajes, Sacrificios, y Simultaneidades', at 188. More, see Spillers, 'Mama's Baby, Papa's Maybe: An American Grammar Book', at 80. Vainfas, *Trópico Dos Pecados. Moral, Sexualidade E Inquisição No Brasil* at 52, 92. Spillers, 'Mama's Baby, Papa's Maybe: An American Grammar Book', at 74.

[414] Cf. *Ordenações Filipinas*, v. 25, 36 and 38, book V, title XXXVIII. See Socolow, *The Women of Colonial Latin America* at 72, Menezes, *Sem Embargo De Ser Femea. As Mulheres E Um Estatuto Jurídico Em Movimento No Século XVIII* at 111.

Drawing on that, this section demonstrates how the politics of extermination was not limited to the "right to kill" performed by the *paulista* and *capitão-do-mato*, but also entailed the relationship between the white husband and his own wife. In other words, the masculinized domination of territories and bodies was also extended to the white female body as a territory of property and male ownership.

The law establishes the right to kill "the wife" in case of adultery. That is, the principle of monogamy was not related to the institution of the marriage concerning both husband and wife, but exclusively to the female body as a male possession. Colonial law precisely defined the male right to kill the – supposedly – 'unfaithful' wife. In other words, it authorized men to exercise any violence against the female partner without being legally penalized for it.[415]

Moreover, the right to kill could be extended to include his wife's concubine only in case if he was from the same level or from an inferior social class of the 'offended' husband. In other words, the legal right to kill has been historically based on gender, race, sexuality and class.

Not surprisingly, foreigner visitors repeatedly reported how shocked they were with the amount of crimes based on 'passion' and 'honor' in Brazil during the seventeenth and eighteenth centuries.[416]

The Other's Family

During the period of slavery, the white master could decide to fragment a black family by selling, killing, or transferring some of them to another location. He had the absolute control over the forms of living and dying of enslaved men, women, children and families; that is, he decided from the permission to have children to whether they would live together or separate.[417]

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[415] See Eva Alterman Blay, 'Violência Contra a Mulher: Um Grave Problema Não Solucionado', in Eva Alterman Blay (ed.), *Feminismos E Masculinidades: Novos Caminhos Para Enfrentar a Violência Contra a Mulher* (São Paulo: Cultura Acadêmica, 2014) at 13.

[416] See Socolow, *The Women of Colonial Latin America* at 71, Vainfas, *Trópico Dos Pecados. Moral, Sexualidade E Inquisição No Brasil* at 131. Schwartz, *Sovereignty and Society in Colonial Brazil. The High Court of Bahia and Its Judges, 1609-1751* at 151. Menezes, *Sem Embargo De Ser Femea. As Mulheres e Um Estatuto Jurídico Em Movimento No Século XVIII* at 111. Richard Ligon, A True and Exact History of Barbados (London, 1657), p. 13.

[417] See Reis and Klein, 'Slavery in Brazil', at 184, Giacomini, *Mulher e Escrava. Uma Introdução Ao Estudo Da Mulher Negra No Brasil* at 37.

Only in 1869, after more than three hundred years of slavery, did the colonial law (article 2 of Decree No. 1695) partially change to prohibit the separation of enslaved family. And it was only in 1871 that law (Law n. 2040, article 4, paragraph 7) described the black family including husband and wife as well as their children up to 15 years old. Despite the legal previsions, historic documents demonstrate how this legal obligation was systematically and continually disrespected.[418]

Black people created the territories of *"quilombo"* as a space of resistance to struggle against the colonial regime. Notwithstanding the lack of documentation, strong evidence indicates that colonial law was not adopted in these places, which were considered to be "areas of ungovernability in the colonial Brazil".[419] There, they established their own juridical traditions and mores, resisting oppressive mechanisms of colonial power. It materializes the resistance to colonial power and the opposition against imperial forms of justice. Different from the male-centered colonial system, several *quilombos* were formed and governed by black women. One example is the case of Aqualtune, the daughter of the king of Congo; she was brought as a slave to Brazil in the 17th century and had commanded thousands of warriors in a battle. Aqualtune managed to escape her masters and to arrive at the *Quilombo dos Palmares*, the most famous *quilombo* in Brazil. There, she promptly received a *mocambo* (a *quilombo* territory) to govern. Despite her exceptional story, Aqualtune was not an isolated case. Many other black women stood out in the creation of *quilombos*, such as Teresa de Benguela (*Quilombo Piolho, Quariterê or Quarietê*), and the matriarchal *quilombo* at the Serra Umã, today renamed as the *Serra das Crioulas* (Creoles' Mountain).[420]

Legal provision allowed the right to kill a *quilombola* (black person member of a *quilombo*). *Quilombo* was defined by colonial law as the gathering of at least five enslaved people, which put also at risk any freed-black family with five people. As a result, colonial law made black and indigenous families completely governable by white men.[421]

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[418] Giacomini, *Mulher e Escrava. Uma Introdução Ao Estudo Da Mulher Negra No Brasil* at 40, Rezzutti, *Mulheres Do Brasil: História Não Contada* at 50.

[419] Cf. Wehling and Wehling, *Direito E Justiça No Brasil Colonial: O Tribunal Da Relação Do Rio De Janeiro (1751-1808)* at 21-23. More, see Alencastro, *O Trato Dos Viventes – Formação Do Brasil No Atlântico Sul* at 345. Wehling and Wehling, *Direito E Justiça No Brasil Colonial: O Tribunal Da Relação Do Rio De Janeiro (1751-1808)* at 46. Silva, 'População E Sociedade', at 46.

[420] See Rezzutti, *Mulheres Do Brasil: História Não Contada* at 49. ibid., at 49-52. Antônio Bispo Dos Santos, *Colonização, Quilombos: Modos e Significados* (Brasília: Universidade de Brasília, Coordenação CNPq, 2015) at 48. Beatriz Nascimento, 'Kilombo e Memória Comunitária: Um Estudo De Caso', in Alex Ratts (ed.), *Eu Sou Atlântica: Sobre a Trajetória De Vida De Beatriz Nascimento* (São Paulo: Imprensa Oficial do Estado de São Paulo and Instituto Kuanza, 2007) at 121.

[421] Alencastro, *O Trato Dos Viventes – Formação Do Brasil No Atlântico Sul* at 345.

In a nutshell, the origin of *pátrio* power refers to the legal authority held by the *pater* (a white man) over his wife (a white woman), offspring, and dependents (enslaved, servants, and poor relatives – especially black and indigenous women). If patrimony is what belongs to the father, patriarchy is a society structured according to the power of father. In other words, the patriarchal alludes to the structure of power in which a man controls the patrimony, and therefore the family. Male control over women was institutionalized and codified in law since the earliest legal codes in Brazil.

Therefore, patriarchy is a historically based process that is grounded in the institutionalization of male dominance over women within the family, and over society, which is perceived as a big politically constituted family. I agree with Gerda Lerner who argues that patriarchy "implies that men hold power in all the important institutions of society and that women are deprived to access such power. It does *not* imply that women are either totally powerless or totally deprived of rights, influence, and resources."[422]

Not by coincidence, the word *pátria* was the term adopted in the colonial period to refer to the modern state, the state 'conquered' and settled by 'courageous' and 'brave' men. Yet, the fatherland did certainly not belong to just any man, but to a white one, the 'master', the 'settler', the 'owner'. That is to say, the fatherland was formed upon the operations of masculinity and whiteness, and translated into the male-centered power over property and people.

As I suggested throughout the chapter, the legal institutionalization of subjectivity, property, labor and familial forms of coexisting established a structure of power based on the aggressive and authoritarian masculinity embodied by the figure of the white colonizer. Such structure deeply influenced the creation of national identity, the invention of the modern nation state and the discourse of rights, as the following chapters will examine.

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[422] Cf. Gerda Lerner, *The Creation of Patriarchy* (Oxford, New York: Oxford University Press, 1986) at 239. More, see Federici, *Caliban and the Witch: Women, the Body and Primitive Accumulation.* Beyond modernity timeframe, see Lerner, *The Creation of Patriarchy.*

Inventing Community, Creating the Nation:

From Fragmentation to Homogenization

Ethnoracial diversity of the population residing within the state's borders became a matter of concern once political legitimacy came to rest firmly on the radical notion of popular sovereignty. The idea that the legitimate political existence of any particular state ascended upward from "the people," rather than downward from the heavens, required some means of identifying who belonged to "the people" and of distinguishing one potentially sovereign "people" from others. The move toward democratic forms of governance thus encouraged the identification of basic similarities within would-be sovereign populations and basic differences across them.

Mara Loveman[ix]

The predominating political view of Brazil as a white patriarchal family was the foundation of the crisis over white male heterosexuality. The future of the nation depended on the morally and sexually strong white man, the all-powerful white father, and anything that threatened his sexual and gender integrity imperiled the future of the nation.

Lamonte Aidoo[x]

All nationalisms were defined against the same foil, the same "stateless other", and this has been a component of the very idea of Europe as the land of "modern" nation-states or, in other words, of civilization. Divide up the world into colonial empires, recognized that they formed a community and shared an "equality" through that very competition, a community and an equality to which they gave the name "White".

Étienne Balibar[xi]

As analyzed in the previous chapter, colonial society was profoundly fragmented, hierarchized and dichotomized within the categories of race, gender, sexuality and class. From the individual ontology, the mechanism of othering presents a subsequent macro dimension regarding the creation of the nation. Thus, the othering is responsible for defining not only ontologies, but also political and legal modes of social coexistence.[423]

The nation state is a considerably recent idea in history. Different from a spontaneous or natural event, national formation is understood to be an artificial, historic-based formation of community, which originated sometime around the 1830s, according to historians and political theorists.[424] Nationalism has been conceptually conceived of as a contemporary manifestation of patriotism.[425]

The philosopher Marilena Chaui situates the nation creation of Brazil by following the chronology proposed by Eric Hobsbawn (1990) that divides it into three stages: national principle (1830-1880); national ideal (1880-1918); and national question (1918-1950/1960).[426] Differently, the researcher Mara Loveman proposes a specific chronology for analyzing the formation of the nation state in Latin America by dividing it into three moments: nation state building (1820s–1930s); nationalist integration and modernization (1940s–1980s); and the struggle to radically redefine the cultural and legal meaning of national belonging (1990s-present).[427]

Instead of adopting a chronological approach, this chapter traces key concepts invoked in the making of an "imagined community":[428] the nation, the people, the public sphere, citizenship, equality, legitimacy, and democracy. The purpose embraced here is not to generally condemn the ideals of democracy and the rule of law as colonial mechanisms of power that inherently excludes peripheric, black, indigenous and female bodies. Rather, the claim posed by this chapter is to question the ways in which the legal

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[423] On the artificial construction of nation state, see Ernest Renan (1882), Benedict Anderson (1983), Ernest Gellner (1983), Étienne Balibar and Immanuel Wallerstein (1988), and Eric Hobsbawm (1990). See Ernest Renan, 'Qu'est-ce Qu'une Nation?', *Conference delivered at the Sorbonne on March 11th, 1882* (Paris, 1882), Anderson, *Imagined Communities. Reflections on the Origin and Spread of Nationalism*, Ernest Gellner, *Nations and Nationalism* (Oxford: Basil Blackwell, 1983), Étienne Balibar and Immanuel Wallerstein, *Race, Nation, Class. Ambiguous Identities* (New York, London: Verso, 1988), Eric Hobsbawm, *Nations and Nationalism since 1780. Programme, Myth, Reality* (2nd edition edn.; Cambridge: Cambridge University Press, 1990). ibid., at 5.

[424] Anderson, *Imagined Communities. Reflections on the Origin and Spread of Nationalism*, Chaui, *Manifestações Ideológicas Do Autoritarismo Brasileiro*, Hobsbawm, *Nations and Nationalism since 1780. Programme, Myth, Reality*, Miroslav Hroch, *Social Preconditions of National Revival in Europe*, trans. Ben Fowkes (Cambridge: Cambridge University Press, 1985).

[425] Gellner, *Nations and Nationalism* at 138.

[426] Chaui, *Manifestações Ideológicas Do Autoritarismo Brasileiro* at 157.

[427] Loveman, *National Colors. Racial Classification and the State in Latin America* at 9-10.

[428] Anderson, *Imagined Communities. Reflections on the Origin and Spread of Nationalism.*

discourse has been appropriated for perpetuating the colonial othering. This analysis will enable us, in the following chapter, to reflect on strategies for transformation.

Nationalism

In the book, *Nations and Nationalism* (1983), the philosopher Ernest Gellner argues that any discussion about the concept of the nation should begin with Max Weber (1864-1920). Aside from the Eurocentrism of such an assumption, Weber's conceptualizations have been some of the most influential in the debate on nationalism not only in Europe but also in Latin America.[429] For instance, Saffioti approached the colonial regime in Brazil with a Weberian lens in terms of "state patrimony" or "patrimonial structure of domination".[430]

Max Weber defines the ideal-type of state as the "political association that successfully claims the monopoly on the legitimate use of violence within a geographical territory", holding both bureaucratic apparatus and communal identity.[431] The elements of territory, use of violence (army), bureaucratic apparatus (law) and communal identity (national feeling and memory) are surely relevant building blocks for the conceptualization of the modern nation state. However, the Weberian rule of state (*Herrschaft*) is defined both as the control over violence and the legitimacy of that control.[432]

Reflecting on the notion of legitimacy, the colonial context poses the crucial question of whether this form of rule was anything other than coercive in the colonized territory. As Miguel Angel Centeno pertinently asks: "to what extent did the black and

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[429] Cf. Miguel Angel Centeno, 'Max Weber and the Latin American State', *Fondo de Cultura Económica y el Centro de Investigación y Docencia Económicas (CIDE),* Marx Weber: una mirada iberoamericana (2013), Saffioti, *A Mulher Na Sociedade De Classes: Mito e Realidade.*

[430] Saffioti, 'The Social Position of Women', at 115. To be fair to Saffioti's work, she did not carry out an ahistorical or acritical transplant of Weber's theory to a completely distinguished locality. Rather, she claimed that the Brazilian historical context has been orchestrating since the first days of colonization a clash between state patrimony and patriarchal order. In this regard, she denominated the Brazilian circumstance as a "patriarchal patrimony". ibid., at 116.

[431] Ideal types are "analytical accentuations of certain elements of society" and conceptual tools with which to approach reality. See Max Weber, 'The Nation State and Economic Policy', in Peter Lassman and Ronald Speirs (eds.), *Political Writings* (Cambridge: Cambridge University Press, 1994b) at 25-26, Max Weber, 'The Profession and Vocation of Politics', in Peter Lassman and Ronald Speirs (eds.), *Political Writings* (Cambridge: Cambridge University Press, 1994a).

[432] There is an important difference between "*Macht*" (power) and "*Herrschaft*" (rule). Power is about the probability of an individual or organization successfully carrying out his or its own will, while rule is about the probability of obedience by others (Weber 1978, 53). See Centeno, 'Max Weber and the Latin American State', at 2.

Indian [indigenous] populations accept the authority of the Iberians in the sense that Weber means to apply the concept of rule?".[433]

I follow Gurminder Bhambra in arguing that most theories of nation formation had failed to recognize its relationship to colonialism.[434] In this respect, this work stresses the necessity to avoid the common narrative that reduces the formation of a modern nation state into some kind of European exceptionalism or a process strictly related to the French Revolution.[435] That is, it challenges the narratives that situate the so-called Global South in a position of being mere consumers of European modernity.[436] Differently, colonialism and the colonized territories are here considered to be crucial milestones for the consolidation of any nation states worldwide. In Bhambra's words:

> The emergence of the nation state occurred in the context of the emergence of the colonial state and developments that are generally ascribed to one are done so in the context of abstracting phenomena out of the relationships and interconnections between them. The course of events does not have to be understood as beginning with the French Revolution and then diffusing outwards, but would be better understood as occurring in the context of the wider interconnections of which particular events were a part.[437]

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[433] ibid., at 10. I follow Centeno in his question, while diverging from his argument on the "passivity acceptance" in the colonial regime. Differently, I state that the dialectic of exclusion between "invader" and "invaded" implied resistance and struggle against colonial violence and oppression. See Cusicanqui, *Violencias (Re) Encubiertas En Bolivia* at 41.

[434] Within a Eurocentric perspective, Weberian assumption of state is carried out through a modern legal domination, an organic growth of authority, social development, and the demarcation of territory. (See Centeno, 'Max Weber and the Latin American State', at 12). Presenting a postcolonial critique, Bhambra argues that while conceptualizing the nation state, Weber would have actually theorized on "imperial states". Accordingly, all cases used by Weber to illustrate a state designate a colonial and imperial state. She explains that his understanding of state involves not only the monopoly of the legitimate use of violence within a given (national) territory, but also the violence directed to other territories and in support of non-state actors. The postcolonial scholar contextualizes the historical period in Germany when Weber developed his conceptualization of the state: "The establishment of the German state in 1871, […] was followed by the intensification of processes of 'de-Polonization' and 'Germanification' at the borderlands of the new state. The formerly Polish areas that had been annexed by Prussia and then settled by German colonists in the 18th century, Zimmerman argues (2006: 59), suffered further waves of 'internal colonization' into the 20th century. […]. Moreover, the 1885 Berlin Conference not only inaugurated the process of European, including German, colonization of Africa, but, according to Conrad (2013), also formalized the idea of the 'internal' colonization – or 'Germanification' – of the eastern provinces as discussed earlier. At the same time as establishing itself in Europe, the incipient German state was consolidating its hold over external territories through a variety of violent colonial expeditions, including in South-West Africa (where the Herero and Nama people were effectively exterminated), Samoa, and Qingdao in China (see Steinmetz, 2005, 2007). There is little consideration, however, of this colonial activity in most discussions of the formation and development of the German state". See Bhambra, 'Comparative Historical Sociology and the State: Problems of Method'.

[435] Often, the French and American revolutions from the late-eighteenth century are perceived as the events that "gave birth to the ideal of the modern nation state". Andreas Wimmer and Yuval Feinsteina, 'The Rise of the Nation state across the World, 1816 to 2001', *American Sociological Review,* 75/5 (2010), 764–90 at 764.

[436] In this paper, the authors defend that "nationalist movements emerge through an imitation process driven by the extraordinary success and global dominance of the first nation states". Ibid., at 785.

[437] Bhambra, *Rethinking Modernity. Postcolonialism and the Sociological Imagination* at 122.

The period of 1830-1920 was marked by the formation of nation states in Europe, as well as by decolonial movements and nation state formation in the Americas.[438] In this respect, the formation of Latin American nation states has been considered chronologically after the French Revolution and well before the creation of most European states, such as Germany and Italy.[439]

The construction of the nation required more than the exercise of political power over a geographically delimited territory. The nation required the creation of a "soul", the feeling of belonging, a collective memory.[440] Leaning on the analysis of nationalism in both hegemonic and Latin American literatures, the waves of scholarship can be characterized as belonging to two major modalities: the ethnic/cultural and the civic/political.[441]

Regarding the ethnic/cultural, it might be constructive to initially examine the etymological roots of the main word being analyzed here. "Nation" comes from the Latin verb *nasci* (to be born) and the noun *natio* (birth, origin). In this way, a nation was primarily defined as comprising individuals who were born in the same place or from the same mother. That is to say, it refers to the notion of communal life, and a common origin in a remote past.[442]

Thus, the ethnic or cultural reading of nation perceives the bonds of nationhood as "primordial attachments of shared ancestry and communal life linked to common origins in some remote past."[443] The socially body is perceived as a big family, a clan. In

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[438] Anderson, *Imagined Communities. Reflections on the Origin and Spread of Nationalism* at 67, Gellner, *Nations and Nationalism* at 42. About colonization and civilization, see Césaire, *Discours Sur Le Colonialisme.* For more on nation state formation, see Étienne Balibar, 'The Nation Form: History and Ideology', in Étienne Balibar and Immanuel Wallerstein (eds.), *Race, Nation, Class: Ambiguous Identities* (New York and London: Verso, 1988a), Bhambra, 'Comparative Historical Sociology and the State: Problems of Method', Pahuja, *Decolonising International Law: Development, Economic Growth and the Politics of Universality.*

[439] Mónica Quijada, 'Introducción', in Mónica Quijada, Carmen Bernand, and Arnd Schneider (eds.), *Homogeneidad y Nación. Con Un Estudio De Caso: Argentina, Siglos XIX y XX* (Madrid: Consejo Superior de Investigaciones Científicas. Centro de Humanidades. Instituto de Historia, 2000b) at 9.

[440] Anderson, *Imagined Communities. Reflections on the Origin and Spread of Nationalism*, Quijada, 'Introducción', at 53, Renan, 'Qu'est-ce Qu'une Nation?'.

[441] See Mónica Quijada, Carmen Bernand, and Arnd Schneider, *Homogeneidad y Nación. Con Un Estudio De Caso: Argentina, Siglos XIX y XX* (Madrid: Consejo Superior de Investigaciones Científicas. Centro de Humanidades. Instituto de Historia, 2000), Loveman, *National Colors. Racial Classification and the State in Latin America*, Luiz Carlos Bresser-Pereira, 'Estado, Estado-Nação E Formas De Intermediação Política', *Lua Nova, São Paulo, /*100 (2017), 155-85.

[442] Before being converted into a political grammar, "nation" was frequently used in reference to native, African and Jewish people. See Chaui, *Manifestações Ideológicas Do Autoritarismo Brasileiro* at 155. Hobsbawm, *Nations and Nationalism since 1780. Programme, Myth, Reality* at 14-16. Silva, 'População E Sociedade', at 59. Pereira, *O Povo Na História Do Brasil. Linguagem E Historicidade No Debate Político (1750-1870)* at 114.

[443] Loveman, *National Colors. Racial Classification and the State in Latin America* at 20-21.

other words, it refers to a naturally formed community based on a common ancestry and on shared myths, traditions, collective memory, and language.[444]

During the first cycle of modern colonization, during the seventeenth and eighteenth centuries the concept of nation was profoundly transformed from an ethnic/cultural dimension to a civic/political one. Theories of the social contract and the artificial creation of community introduced the notions of agreement, consensus, and common will for the analysis of the formation of modern society.[445]

The contractual terminology has been considered the political *lingua franca* of our times, as concluded by both Carole Pateman and Charles, Mills in their milestone works, *The Sexual Contract* (1988) and *The Racial Contract* (1997), respectively.[446] In the late sixteenth and seventeenth centuries, social contract theories speculated on the origins of society and the construction of social sovereignty and inequalities, that have shaped classic and contemporary political theory.

According to the Hobbesian reading of the contract (1651), the constant fear of violence from the "state of nature" – described as "the war of all against all" – results in a necessity to establish a new form of coexistence to be materialized via a (hypothetical) social contract. The social contract represents a major transition from primitivity to civilization, from nature to political, from habits to law. In other words, the civic/political bond of nationhood was created on the basis of a "daily plebiscite"[447] translated in terms of a voluntary adherence to a set of shared values and political principles.[448]

However, the social contract theory should not be perceived merely as a fiction of an original agreement. Rather, according to Pateman, it represents "how major political institutions should properly be understood."[449] It constitutes the very ground for the emergence of the universal principles of equality, freedom and fraternity.[450]

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[444] Mónica Quijada, 'Nación y Territorio: La Dimensión Simbólica Del Espacio En La Construcción Nacional Argentina. Siglo XIX', *Revista de Indias,* LX/219 (2000a), 373-94 at 374.

[445] See Thomas Hobbes, *Leviatã* (2007 edn.; São Paulo, Brazil: Martin Claret, 1651). On critical readings of contractual theories, see Charles H. Mills, *The Racial Contract* (Ithaca and London: Cornell University Press, 1997a). Pateman, *The Sexual Contract.*

[446] Charles W. Mills, *The Racial Contract* (Ithaca and London: Cornell University Press 1997b) at 3, Pateman, *The Sexual Contract* at 1.

[447] Renan, 'Qu'est-ce Qu'une Nation?'.

[448] Loveman, *National Colors. Racial Classification and the State in Latin America* at 20-21, Quijada, Bernand, and Schneider, *Homogeneidad y Nación. Con Un Estudio De Caso: Argentina, Siglos XIX y XX* at 374.

[449] Pateman, *The Sexual Contract* at x.

[450] Ochy Curiel, *La Nación Heterosexual. Análisis Del Discurso Jurídico y El Régimen Heterosexual Desde La Antropología De La Dominación* (Bogotá: En la frontera, 2013b) at 100.

Despite the apparent opposition between the ethnic and the civic conceptions of the nation, they actually coexist.[451] That is to say, they configure what Étienne Balibar names the "nationalization of the family" that "has as its counterpart the identification of the national community with a symbolic kinship, circumscribed by rules of pseudo-endogamy, and with a tendency not so much to project itself into a sense of having common antecedents as a feeling of having common descendants."[452]

Regarding the overlap of ethnic and political approaches, "the discourse of race and nation are never very far apart".[453] In this respect, the following section examines the relation between race and nation, as well as the notion of common feeling or belonging.

Racialized Nation, Nationalized Race

The first work to focus on the modern formation of the nation is perhaps *Qu'est-ce qu'une nation?* (1882) from Ernest Renan. In this piece, the author challenges the classic ethnical reading of a nation as something naturally formed by racial groups with a common language, religion, interests, and residing within a specific territory. Renan states that these elements would not be sufficient to properly explain the idea of a nation because they fail to recognize the sentiment known as the "spiritual principle" that is responsible for connecting "body to soul". That is to say, the feeling of belonging to a community is considered crucial for the formation of the modern nation state. Accordingly, the spiritual principle would be constituted by "two main traces involving past and present. One is the feeling of sharing a 'legacy of memories', that is, a common ancestral heritage. The other is the desire to live together, described as a 'daily plebiscite', which would constitute the common will." [454] In this way, the author combines both ethnical and political dimensions to conceptualize the creation of a national assemblage.

Almost one hundred years later, in 1983, the debate around the modern nation state and nationalism drastically reemerged with the publication of two landmark books. The first, by Benedict Anderson, was entitled *Imagined Communities. Reflections on the Origin*

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[451] Loveman, *National Colors. Racial Classification and the State in Latin America* at 20-1, Quijada, 'Nación y Territorio: La Dimensión Simbólica Del Espacio En La Construcción Nacional Argentina. Siglo XIX', at 374.

[452] Balibar, 'The Nation Form: History and Ideology', at 102.

[453] Balibar, 'Racism and Nationalism', at 37.

[454] Renan, 'Qu'est-ce Qu'une Nation?'.

and Spread of Nationalism, and the second, by Ernest Gellner, was entitled *Nations and Nationalism*.[455]

Benedict Anderson recognizes the role that colonialism and racism played in the formation of the national discourse. In Anderson's words, "first was the effect of the explorations of the non-European world, which mainly but by no means exclusively in Europe 'abruptly widened the cultural and geographic horizon and hence also men's conception of possible forms of human life'".[456] In this respect, the author stresses the distinction between racism and nationalism:

> In an age when it is so common for progressive, cosmopolitan intellectuals (particularly in Europe?) to insist on the near-pathological character of nationalism, its roots in fear and hatred of the Other, and its affinities with racism, it is useful to remind ourselves that nations inspire love, and often profoundly self-sacrificing love.[457]

Accordingly, different from racism, nationalism would foster the feeling of love. Nationalism would operate through historical destinies, while racism is concerned with "eternal contaminations, transmitted from the origins of time through an endless sequence of loathsome copulations: outside history".[458] As a result, racism would produce domestic repression and domination, while nationalism would justify foreign wars.

In the same year, Ernest Gellner conceptualizes nationalism as a political principle, which holds together political and national as congruent units, and brings to the debate the concept of "ethnicity". Gellner's analysis considers nationalism as the legitimizing basis of modern politics in which ethnic boundaries would no longer cut across political borders.[459]

Anderson's analysis is based on the differentiation of nationalism and racism in terms of feeling – hate and love – and dimension – domestic and foreigner –, as well as Gellner's claim of the complete absence of interaction between ethnic boundaries and political borders. In this way, both readings lead to an unsatisfying binary opposition between a homogenous inside – the ones, nationals, included, insiders – and a heterogenous outside – the others, foreigners, excluded, outsiders. Ergo, their analyses

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[455] Curiously, there was almost one hundred years between the Ernest Renan's conference (1882) to the next relevant piece on the topic from the 1980s. Hobsbawm notes a fruitful phase of the literature on nations and nationalism from the 1970s, mentioning that was not clear the historical conjuncture that could justify that fact. Cf. Hobsbawm, *Nations and Nationalism since 1780. Programme, Myth, Reality* at 3.

[456] Anderson, *Imagined Communities. Reflections on the Origin and Spread of Nationalism* at 16.

[457] Ibid, at 141.

[458] Ibid., at 149-50.

[459] Gellner, *Nations and Nationalism* at 1, 7.

risk to dismiss or even erase the multiplicity of bodies within national borders, regarding gender, race, sexuality, and class.

In the book *Race, Nation, Class* (1988), Étienne Balibar and Immanuel Wallerstein provide, from my perspective, a more compelling theoretical framework. Leaning on the notions of "race" and "community", Balibar conceptualizes racism and the formation of modern community in relation to "affects", similar to the previously mentioned notions of "soul" and "spiritual principle" argued by Renan. According to Balibar:

> Racism – a true 'total social phenomenon' – inscribes itself in practices (forms of violence, contempt, intolerance, humiliation and exploitation), in discourses and representations which are so many intellectual elaborations of the phantasm of prophylaxis or segregation (the need to purify the social body, to preserve 'one's own' or 'our' identity from all of mixing, interbreeding or invasion) and which are articulated around stigmata of otherness (name, skin colour, religious practices). It therefore organizes affects (the psychological study of these has concentrated upon describing their obsessive character and also their 'irrational' ambivalence) by conferring upon them a stereotyped form, as regards both their 'objects' and their 'subjects'. It is this combination of practices, discourses and representations in a network of affective stereotypes which enables us to give an account of the formation of a racist community (or a community of racists, among whom there exist bonds of 'imitation' over a distance) and also of the way in which, as a mirror image, individuals and collectivities that are prey to racism (its 'objects') find themselves constrained to see themselves as a community.[460]

In this regard, Balibar highlights how the mechanism of othering entails three interconnected dimensions: practices, discourses and representations. Then, the combination of these dimensions would be responsible for organizing collective sentiments and forming a community based on racism. That is to say, a racist community.

Thus, racism is perceived as both a political and legal institutionalization of power in the whiteness structure of a nation state. The notion of institutional racism points out how racism is not only ideological or interpersonal, but actually "refers to a pattern of unequal treatment in everyday operations such as educational systems, educational agendas, labor markets, criminal justice, services, etc. Institutional racism operates in a way that provides *white* subjects with a clear advantage over other racialized groups", as explains Grada Kilomba.[461]

Moreover, the overlapping of nationalism and racism is considered by Balibar to be a matter of historical articulation, rather than a question of formal similarity. In his words, "racism is constantly emerging out of nationalism, not only towards the exterior

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[460] Balibar, 'Is There a 'Neo-Racism'?', at 17-8.
[461] Kilomba, *Plantation Memories. Episodes of Everyday Racism* at 42.

but towards the interior".[462] In this aspect, nationalism not only overlaps racism but also produces and transforms it.

Bringing the analysis to Latin America, the process of independence has been considered the common starting point of national experience.[463] In this way, the following section further examines the notions of independence and coloniality in the making of the nation in Brazil.

~~Independence?~~ Coloniality and Development

In reaction to the social disputes and popular revolts crossing the entire country, the Principe Regent Dom Pedro officially declared the independence of Brazil on September 7th, 1822. Not really a rupture with the colonial regime, the independence of Brazil was actually a transition from the colonial regime to the *Brasil Império* (1822-1889) still governed by Dom Pedro.[464] In this respect, this investigation situates the independence closer to a "recolonization" or "double colonization" than to the ideals of emancipation or decolonization.[465]

Nevertheless, Brazilian independence should not be reduced to a single or peaceful event. Differently, the independence has been a process involving continual acts of resistance, political disputes and insurgence.[466] The colonial strategy to silence any

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[462] Balibar, 'Racism and Nationalism', at 50-3.

[463] Oscar Oszlak, 'The Historical Formation of the State in Latin America: Some Theoretical and Methodological Guidelines for Its Study', *Latin American Research Review. The Latin American Studies Association,* 16/2 (1981), 3-32 at 17.

[464] As previously mentioned in the first footnote of this work, at the end of 1821 and beginning of 1822, the Royal family decided to return to Portugal and the emperor Dom João left his son, Dom Pedro, to govern the colony within the status of "Principe Regent". Cf. Lilia Moritz Schwarcz, 'A Mestizo and Tropical Country: The Creation of the Official Image of Independent Brazil', *Revista Europea de Estudios Latinoamericanos y del Caribe,* 80 (2006), 25-42. Lilia Moritz Schwarcz, 'As Marcas do Período', in Lilia Moritz Schwarcz (ed.), *História Do Brasil Nação: 1808-2010* (3, A Abertura para o mundo: 1889-1930; Rio de Janeiro and Madrid: Objetiva and MAPFRE, 2012c).

[465] The term "recolonization" was mentioned by Pereira. Similarly, Rowland notes a "re-colonizing" politics carried out by Portugal. Cf. Pereira, *O Povo Na História Do Brasil. Linguagem E Historicidade No Debate Político (1750-1870)* at 150. Robert Rowland, 'Patriotismo, Povo e Ódio Aos Portugueses: Notas Sobre a Construção da Identidade Nacional No Brasil Independente', in István Jancsó (ed.), *Brasil: Formação Do Estado E Da Nação* (São Paulo: HUCITEC, UNIJUI and FAPESP, 2003) at 368.

[466] From slavery insurgences to revolutionary movements from local elites, as the one erupted in Pernambuco in 1817. Cf. Pereira, *O Povo Na História Do Brasil. Linguagem E Historicidade No Debate Político (1750-1870).*

social mobilization somehow failed since insurrections and revolts remained active after the official declaration of independence.[467]

Drawing on that, the comprehension of independence as a complete rupture with former colonial domination would be a romanticized reading of any anti-colonial struggle. After the Brazilian independence, the country was still framed as an example of a successful colonization to be followed by the other colonies of the Portuguese Empire, described as the "most brilliant accomplishment of the colonizing spirit of the Portuguese" by the Portuguese scholar, Mendes Correia, at the first Colonial Anthropology Congress (1934).[468] In other words, colonialism institutionalized a structure of power which was maintained after the independence in the form of a neocolonial assemblage of knowledge, power and being. The Latin American scholarship known as *grupo modernidad/colonialidad* named this assemblage as "coloniality".[469]

Furthermore, the subsequent transformation of a slavery regime to a "free" market (1888) has been predominantly analyzed in the frame of rupture and emancipation.[470] Notwithstanding the relevance of recognizing the importance of slavery abolition, this analysis argues that coloniality is maintained not only after the moment of independence, but also within the later transition from a Monarchy to a Democratic Republic (1889).[471]

The colonial structures of power suffered from a legitimacy crisis, especially during the inter-war years, as pointed out by Rajagopal.[472] The solution for dealing with the rise of popular mass resistance was the creation of international institutions to mediate the transition between the discourse of colonialism and development.

Despite the fact that Sundhya Pahuja and Antony Anghie situate their arguments within the mid-twentieth century, they still provide helpful frameworks for examining the previous context of Latin America. In *Decolonising International Law* (2011), Sundhya Pahuja demonstrates how the only alternative left for the colonized states to achieve independence was through being inserted into the category of a nation. That is to say, the

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[467] For instance, there was the Revolt of *Cabanagem* (1835-1840), *Guerra dos Farrapos* (1835-1845), Revolt of *Sabinada* (1837-1838), Revolt of *Balaiada* (1838-1841), *Revolução Praieira* (1848-1849), *Canudos* (1896-1897) – some of the most famous examples that does not exhaust the many revolts and resistance movements in the country.

[468] Matos, *The Colours of the Empire. Racialized Representations During Portuguese Colonialism* at 66.

[469] Maria Lugones, 'The Coloniality of Gender', *Worlds & Knowledges Otherwise,* /Spring (2008a), Nelson Maldonato-Torres, 'On the Coloniality of Being: Contributions to the Development of a Concept', *Cultural Studies,* 21/2-3 (2007), 240-70, Walter Mignolo, *La Colonialidad: La Cara Oculta De La Modernidad* (Barcelona, Spain: Península, 2001), Quijano, '¡Qué Tal Raza!'.

[470] See Miskolci, *O Desejo Da Nação: Masculinidade e Branquitude No Brasil De Fins Do XIX* at 14.

[471] Ibid., at 29-30.

[472] Rajagopal, *International Law from Below. Development, Social Movements, and Third World Resistance* at 52-3.

act of anti-colonial liberation was captured into to the colonizer epistemology of development and growth.[473]

The ideals of order and progress were directly inspired by the Eurocentric notion of development. On the one hand, colonized states were related to the pre-civilized, nonpolitical, primitive, and located at the stage of the infancy of humanity. For example, at the Colonial Anthropology Congress of 1934, one of the studies concluded that the mental age of the "*indígenas* of Angola corresponded to that of European children aged between 6 and 13".[474] By contrast, European states were portrayed as civilized, mature, adult, and developed.[475]

Similarly, in *Imperialism, Sovereignty and the Making of International Law* (2004), Antony Anghie argues that the techniques and methods developed by international law maintained the "othering" mechanism at a transnational level, that is, among nations, producing a new form of empire. Accordingly, the international law not only legitimized colonial exploitation, but also developed mechanisms to hinder any possibility for colonial reparations.[476]

Moreover, Anghie points out that "colonialism was central to the development of international law, and that sovereignty doctrine emerged out of the colonial encounter".[477] In a similar way, I examine the relationship between colonialism and Constitutional law in the consolidation of the modern nation state.

The declaration of independence (1822) was quickly followed by the legislation of the first Constitutional Law of Brazil (1824). Legally, the Constitutional Code configured a juridical-bureaucratic regime responsible for integrating the provinces into a national unit. Politically, it represented a response to popular sovereignty, instead of the formal discourse being produced by it.[478]

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[473] Sundhya Pahuja, 'From Decolonisation to Developmental Nation State', *Decolonising International Law: Development, Economic Growth and the Politics of Universality* (Cambridge/UK: Cambridge University Press, 2011b) at 47.

[474] See Matos, *The Colours of the Empire. Racialized Representations During Portuguese Colonialism* at 115, 17.

[475] Ibid., Mills, *The Racial Contract* at 13.

[476] Anghie, *Imperialism, Sovereignty and the Making of International Law* at 312-4.

[477] Ibid., at 2-3.

[478] See José Reinaldo De Lima Lopes, 'Iluminismo e Jusnaturalismo No Ideário Dos Juristas Da Primeira Metade Do Século XIX', in István Jancsó (ed.), *Brasil: Formação Do Estado E Da Nação* (São Paulo: HUCITEC, UNIJUI and FAPESP, 2003) at 200-1, 14. ibid., at 217-8.

Despite the fact of symbolically declaring a new order, the Brazilian Constitutional code was completely produced and approved by the former colonial institutions.[479] A new order produced by the old structures. Such a paradox clearly belies the retention of the preceding colonial structures after independence.

Through the Constitutional law, the territorial border assumed a fundamental function not only in defining the state but also in forming the nation. On one side, the territorial border materialized the state on a physical level, transforming the state into a tangible element that can be mapped, counted, and controlled. On the other side, they constitute the limits of the state's control over space, and therefore over people, which became the scope of production and the reproduction of national identity.

In this way, the concept of 'the people' emerged as a transcendent entity responsible for conferring the political legitimation to a sovereign to govern the delimited territory. In other words, the people refers to the unity of a homogenous collective body that shares a common will.[480]

~~Colonial Difference~~ Creating the Common

The modern history of colonialism is characterized by a profound social fragmentation. As a result of the slavery regimes (1 and 2), the massive transatlantic migration and regional dislocations, a large-scale mass of uprooted communities with

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[479] The colonial legislation was, from the first moment, an abrupt legal transplant from Portugal to the tropics. In that given historical time, the main source of Portuguese law was the three "*Ordenações do Reino*" (Laws of the Kingdom) which were successive compilations of Portuguese law promulgated as national codes between 1446 and 1603. It had begun in the fifteen-century with the legal code written by Afonso V named *Ordenações Afonsinas* (1446); revised in the sixteenth century by Dom Manuel I, *Ordenações Manuelinas* (1514-1521); and added a third volume by Philip III of Spain, *Ordenações Filipinas* (1603). Portuguese codification was influenced by the Roman and Visigothic Codes, also involving local specificities of Royal concessions and grants by a dominant strain of consuetudinary law. Not surprisingly, Portuguese legal tradition deeply influenced the formation of colonial law in Brazil. The juridical formation of the country has been therefore referred as "Luso-Brazilian legal tradition". Only in 1707, Brazil produced its first local codification, namely the *Constituições Primeiras do Arcebispado da Bahia*. Differing from the Portugal context, the colonial specificities of Brazil produced a law which deals with a local system of colonial divisions regarding race/skin color, gender, sexuality, and class. See (Lewin, *Surprise Heirs: Illegitimacy, Patrimonial Rights, and Legal Nationalism in Luso-Brazilian Inheritance, 1750–1821* at xxviii-xxix.) Schwartz, *Sovereignty and Society in Colonial Brazil. The High Court of Bahia and Its Judges, 1609-1751* at 45, Menezes, *Sem Embargo De Ser Femea. As Mulheres E Um Estatuto Jurídico Em Movimento No Século XVIII* at 47, ibid.

[480] Hobbes, *Leviatã*. In stark contrast with the Hobbesian theories, see Spinoza, Baruch. *Ética*. Belo Horizonte: Autêntica, 2009, p. 64. Virno, Paolo. *Gramática da multidão − para uma análise das formas de vida contemporâneas*. Trad. Leonardo Retamoso Palma. Cambrigde: MIT Press, 2003, p. 4. Negri, Antonio. *Para uma definição ontológica da multidão*. Lugar Comum. n. 19-20, p. 18. Negri, A.; Hardt, M. *Império*. 3. ed. Trad. Berilo Vargas. Rio de Janeiro: Record, 2001, p. 88.

different languages, habits, and religions, were all gathered together in the same territory.[481]

In this respect, Brazil presented an exceptional heterogeneous demography not only in comparison to Europe, but in relation to any other place in the Americas. With the largest and longest slavery regime, Brazil forcibly brought together people from numerous sites, ethnicities and cultures of Africa – the *Angicos, Andongos, Libolos, Vilis, Quissamas, Loangos, Benguela, Imbangalas, Bailundos*, etc. In addition to the variety of indigenous communities already living inside the continental borders of Brazil, which had and area of more than eight million square kilometers, the country with the status of the capital of the Empire (1808-1822) received foreign visitors as any other colony. [482]

Due to the profound divisions within its colonial society, the *plebe* (rabble) excluded from the notion of *povo* (the people) were perceived in a more menacing way in Brazil than in Europe. To give some perspective to this social fragmentation, the population in Brazil in 1931 was around 5 million people and an average of one-third or even one-half of them were enslaved.[483] Consequently, the notions of "popular sovereignty" and the "right to insurrection" were deeply feared in the Brazilian formation of a nation state.[484]

I suggest that the creation of a national feeling, previously called the "spiritual principle",[485] or the "love" inspired by nationalism,[486] involved the continuous interplay of two elements: the active creation of a normative national identity through the process of homogenization, and the politics of extermination. I opt for the term, "politics of extermination", in order to avoid misinterpretations that the terms "forgetting" used by Renan (1882) and "amnesia" mentioned by Anderson (1983) could provoke as related to natural or necessary processes. Differently, a politics of extermination refers to an active creation of myths while erasing narratives, memories, histories and bodies. Bearing on

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[481] More, see Hall, *Sin Garantias. Trayectorias y Problemáticas En Estudios Culturales* at 358-9.

[482] Chantal Mouffe disagrees that the notion of "people" necessarily implies in the production of homogeneity. Accordingly, such a reading fails to consider the production of "people" in what she calls a "left populist" strategy, in which the notion would not be "an empirical referent but a discursive political construction". Additionally, she claims that such a critique reveals "a lack of understanding of the operation through which a people is constructed". In my perspective, Mouffe's elaboration is the one that actually disregards the material basis from which the notion of people has been historically constructed – in opposition to a *multitude* – as a homogeneous subject in which all the differences are somehow reduced to unity. Nevertheless, I agree with the author that the definition of people falls within the zone of political struggle. See Chantal Mouffe, *For a Left Populism* (London, New York: Verso, 2018) at 78-80.

[483] Pereira, *O Povo Na História Do Brasil. Linguagem e Historicidade No Debate Político (1750-1870)* at 188-9. Chaui, *Manifestações Ideológicas Do Autoritarismo Brasileiro* at 13.

[484] Pereira, *O Povo Na História Do Brasil. Linguagem E Historicidade No Debate Político (1750-1870)* at 108.

[485] Renan, 'Qu'est-ce Qu'une Nation?'.

[486] Anderson, *Imagined Communities. Reflections on the Origin and Spread of Nationalism.*

that, this section presents interconnected processes of homogenization of language, identity, memory, statistics/census, and bodies.

Imposing a Language, Silencing Voices

The homogenization of language has been considered one of the main pillars of the ethnicization of society in the shape of a nation. In this respect, Brazil was crossed by a multiplicity of spoken languages from indigenous communities and African peoples such as *Jês, Caribes, Tupi, Quicongas, Umbundas, Fons, Nheengatu, Quimbundo*, and *Ioruba*. Until the 1750s, the indigenous language, *Tupi,* was a predominant one in the country.[487] It was by a top-down decree that Portuguese was established as the official language of the country in 1757 and the public use of any other tongue became prohibited.[488]

The compulsory homogenization of language profoundly transformed the act of speaking in terms of assuming "a culture, to support the weight of a civilization," as described by Frantz Fanon.[489] The homogenization of the colonial language operates within the othering mechanism by reproducing the binary: adult (as the white colonizer) and child (as the black and indigenous colonized). Fanon explains that:

> A white man addressing a Negro behaves exactly like an adult with a child and starts smirking, whispering, patronizing, cozening. It is not one white man I have watched, but hundreds; and I have not limited my investigation to any one class but, if I may claim an essentially objective position, I have made a point of observing such behavior in physicians, policemen, employers. I shall be told, by those who overlook my purpose, that I should have directed my attention elsewhere, that there are white men who do not fit my description.[490]

In this sense, colonial othering reduces colonized people to the status of less than human and thus "without any complex form of communication, that is without language".[491] It refers to the colonial mask described by Grada Kilomba as "cruel regimes of silencing the so-called 'Others': Who can speak? What happens when we speak? And what can we speak about?".[492]

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[487] Silva, 'População e Sociedade', at 56-7.

[488] Anderson, *Imagined Communities. Reflections on the Origin and Spread of Nationalism*, Gellner, *Nations and Nationalism*, Quijada, 'Introducción', at 25-7. Nevertheless, it is important to recognize that Portuguese language spoken in Brazil was profoundly transformed and impacted by the indigenous and African influences, receiving new intonations, vocabularies, and syntax. See Gonzalez, 'A Categoria Político-Cultural de Amefricanidade'. Silva, 'População e Sociedade', at 56-7.

[489] Fanon, *Black Skin, White Masks* at 17-8.

[490] Ibid., at 31.

[491] Gabriela Veronelli, 'The Coloniality of Language: Race, Expressivity, Power, and the Darker Side of Modernity', *Wagadu,* 13/Summer (2015), 108-34.

[492] Kilomba, *Plantation Memories. Episodes of Everyday Racism* at 14.

Coloniality violently establishes a monolanguage and a monologic in which there is only one way of knowing, speaking, and living. It imposes on every colonized body the extermination not only of their language, but of their ways of articulating and living. Colonized people are placed outside Western rationality and made incapable of interlocution, and thus rendered into those who cannot speak.[493] An example of such a narrative can be found in the Portuguese Colonial Anthropology Congress of 1934, precisely in the speech of the founder of the Portuguese Society of Eugenic Studies (1937) Eusébio Tamagnini:

> generally speaking, colonizing nations had a degree of 'moral and civil perfection' higher than that of the 'colonized populations', whose 'cerebral development [was] generally more backward'. Therefore, they had serious difficulty in learning the language of the colonizer, a situation which led to a 'corruption of the forms and alteration in the meaning of most words'.[494]

Furthermore, the common language was a step towards the creation of a common education system and a shared collective memory and these were considered to be crucial steps toward the transformation of fragmented groups into one unified nation. In other words, the colonial regime had the institutional reinforcement of schools for the naturalizing and propagating of the national single-history narrative.

In the book, *The Colours of the Empire: Racialized Representations during Portuguese Colonialism* (2013), Patricia Matos analyzed how the educational material used in the elementary schools and high schools propagated colonial imaginaries and normative ideas in Portugal.[495] The scholar concludes that "the Portuguese are represented as a people of discovery and colonization who had preceded all others in this process", while the Africans are mainly represented as lazy.[496] Brazil is described as the "'work of a single White people – the Portuguese'. But this is followed by the acknowledgement that 'to develop the area of over 8 million square kilometers, the cooperation of Black labour was necessary.'"[497] Slavery is translated into terms of "cooperation" while colonization is replaced by "discovery."[498]

Despite the Brazilian Federal Law (10.639/2003 and 11.645/2008) that established as compulsory the teaching of the African and African-Brazilian cultures in

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[493] Spivak, *Can the Subaltern Speak*, Veronelli, 'The Coloniality of Language: Race, Expressivity, Power, and the Darker Side of Modernity'.

[494] Matos, *The Colours of the Empire. Racialized Representations During Portuguese Colonialism* at 138.

[495] The mentioned research was concerned with the third and fourth years of primary school and the first years of secondary school in Portugal. Cf. Ibid., at 68.

[496] Ibid., at 68-74.

[497] Ibid.

[498] Kilomba, *Plantation Memories. Episodes of Everyday Racism* at 34.

the public education system, the educational system in Brazil still perpetuates the Eurocentric narrative of history, memory, identity and knowledge. This is what concludes the research conducted in 2017 that points to the existence of a widespread "pedagogic of whiteness" responsible for sustaining and perpetuating ideals, aesthetics, and Eurocentric normativity in the Brazilian educational system.[499]

On top of that, as we know, schools and universities were initially reserved exclusively for white men. In 1838, in Rio de Janeiro, Nísia Floresta (1810-1885) founded the first school in which a (white) woman could attend.[500]

Creating Identity, Erasing Memories

In 1838, Brazil established the Institute of History and Geography (IHGB) with the aim of creating the official narrative of the nation. In 1844, the institute opened a contest on "How to write the History of Brazil?". Surprisingly or not, a Bavarian, Karl von Martius (1794-1868), was the one who won the prize. Von Martius defined the Brazilian national narrative by the "unrivalled mix of peoples and colours" formed by the mixture of indigenous, white, and black "races". The notion of a harmonic mixture was the influential claim of his thesis and has been internationally considered the central feature of Brazilian identity until today.[501]

Contrary to what might seem to be the case, the narrative of the mixture of three "races" did not erase hierarchies among the white, indigenous and black people. The national identity was mainly constructed around the Portuguese ethnical and cultural contributions. The Portuguese outsider was portrayed as the white male conqueror who

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[499] More, see Cintia Cardoso and Lucimar Rosa Dias, 'A Investigação Acadêmica Sobre Processos De Branquitude Na Educação Infantil: Uma Reflexão Inicial', in Tânia M. P. Müller and Lourenço Cardoso (eds.), *Branquitude. Estudos Sobre a Identidade Branca No Brasil* (Curitiba: Appris, 2017). Nascimento, 'Por Uma História Do Homem Negro', at 95.

[500] See Nísia Floresta, 'Direito Das Mulheres E Injustiça Dos Homens [1832]', in Constância Lima Duarte (ed.), *Nísia Floresta* (Recife: Fundação Joaquim Nabuco, 2010). Paulo Rezzutti, *Mulheres Do Brasil: História Não Contada* (Rio de Janeiro: LeYa, 2018).

[501] Miskolci, *O Desejo Da Nação: Masculinidade e Branquitude No Brasil De Fins Do XIX* at 21-22, Rowland, 'Patriotismo, Povo E Ódio Aos Portugueses: Notas Sobre a Construção Da Identidade Nacional No Brasil Independente', at 370. The diplomat Francisco Adolfo de Varnhagen has been considered "the father" of Brazilian modern history. Varnhagen was profoundly aligned with Dom Pedro II in collaborating with the IHGB in creating a national historical memory. In his "*A Historia da Independência do Brasil*" (The History of the Independence of Brazil), published between 1854 and 1857, Varnhagen glorifies the Portuguese colonization and its influence on the formation of Brazil as a nation, against what he pejoratively calls "caboclo" patriotism. See Varnhagen, F. A. A Historia da Independencia do Brasil. São Paulo: Melhoramentos, 1957 [1917].)

bravely 'discovered' lands, 'secured' the territory and 'imprinted his moral marks' while building the Brazilian nation.

After the white race, the indigenous ethnicity was framed as being in the second position of the racist colonial hierarchy. Similar to a child, indigenous people became essentialized in terms of purity, goodness, honesty and braveness. European painters hired by the Portuguese Empire started to produce several portraits of indigenous people in whiter tones to decorate the Monarchical Palace. The imaginary of a long distant indigenous' ancestor was embraced as a symbol of "*brasilidade*" (Brazilianess). Nevertheless, at the same time, there was no ceasing of the extermination of native communities.[502]

At the bottom of the colonial racist hierarchy was the black people.[503] Despite having the largest population of African descendant in the Americas (1822), the colonial creation of *brasilidade* completely rejected any African contribution to the national memory, narrative, culture, language, or identity.[504] Moreover, the erasure of black people from the national construction was not exceptional to Brazil but a common element across the region, according to Catherine Walsh.[505]

The speeches given at the Portugal Imperial Conference of 1933 strongly remarked the outlined racial differences. According to the research carried out by Patricia de Matos, it was argued in this Conference that:

> the 'Black' had 'limited horizons' and it was necessary to 'elevate' his life 'to increasingly high levels of moral and material necessity', and this would only be possible via 'contact with the European'. Not only this, but the Natives, 'dogged… by a thousand diseases', were 'abandoned to the scant resources of their won wherewithal' and 'would quickly perish, if European science did not come to their aid'. As in other speeches, no mention is made of what settlers could learn from Natives. It is always the Native who can learn from the settler.[506]

Matos' research provides another example of the Portuguese exhibition on "the Portuguese world" that was organized in commemoration of nationhood in 1940. In this exhibition, Brazil was considered as "Portugal's 'great sister nation'" and had its own

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[502] Silva, 'População E Sociedade', at 72.

[503] Schwarcz, 'A Mestizo and Tropical Country: The Creation of the Official Image of Independent Brazil', at 27.

[504] Chaui, *Manifestações Ideológicas Do Autoritarismo Brasileiro* at 186-8, Miskolci, *O Desejo Da Nação: Masculinidade E Branquitude No Brasil De Fins Do XIX* at 22, Schwarcz, 'A Mestizo and Tropical Country: The Creation of the Official Image of Independent Brazil', at 37.

[505] Cf. Catherine Walsh, 'Interculturalidad Y (De)Colonialidad: Diferencia Y Nación De Otro Modo', *Livro da Academia da Latinidade, Textos & Formas Ltda,* (2006) at 37.

[506] According to Matos' investigation, the conference was attended by the governors of India, Mozambique, Angola, Cape Verde, São Tomé, Macao, Guinea and Timor. See Matos, *The Colours of the Empire. Racialized Representations During Portuguese Colonialism* at 113-4.

pavilion inaugurated by Brazilian president Getúlio Vargas (1934-1945; 1951-1954). There was no reference to the "African element, the slave trade or the coffee plantations."[507] Such omission is clearly not an accident. As Charles Mills argues, there is a structural silence regarding the recognition of racism and slavery as the basic political systems that shaped the world for the past several hundred years.[508]

In 1880, the Brazilian Society Against Slavery presented a manifesto reinforcing the myth of national harmony, "until today, slavery could not create between us any racial hatred." Following in the same direction, in 1881, the journal *Província de São Paulo* published the following statement: "We, Brazilians, do not distinguish races. The slaves from today will be, due to their future skills and studies, equal the masters from yesterday, and undifferentiated in their citizen status, both will collaborate towards the greatest prosperity of the nation."[509]

After the end of slavery (1888), the Republican anthem proudly sings that: "We do not believe that slaves ever existed in such a noble country!" (1889) [my translation].[510] Moving back to the quoted lyric, "we do not believe", I interrogate: who is the 'we', that is, the subject of this claim? Native and black people surely believed that "slaves have once existed in such a noble country", since they experienced it in their flesh for centuries. Not only did they believe, but they were the material proof of it.

In this respect, I argue that the 'we' invoked in the anthem presents a significant dimension of who was part and who was not part of the neocolonial constitution of "the people". This blatant 'we' traces precisely the line between who could not "believe that slaves have once existed" and who would be the ones to have suffered from this historical system of institutional violence. Therefore, the invention of the collective memory already entails the political definition of who belonged to "the people", and who inevitably did not.

Pursuing the neocolonial ideals of progress and development, Brazil officially embraced the project of whitening based on bringing white European bodies to Brazil in order to completely replace black and indigenous workers.[511] The project was grounded

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[507] Ibid., at 197.

[508] Mills, *The Racial Contract* at 1.

[509] See Lilia Moritz Schwarcz, *O Espetáculo Das Raças: Cientistas, Instituições e Questão Racial No Brasil (1870-1930)* (São Paulo: Companhia das Letras, 2007) at 29.

[510] The original in Portuguese: "*Nós nem cremos que escravos outrora/ Tenha havido em tão nobre país!*".

[511] Skidmore, *Preto No Branco: Raça E Nacionalidade No Pensamento Brasileiro, 1870-1930*.

in the belief that "miscegenation between Brazilians and European immigrants would lead to the dilution of 'Negroid' characteristics in just a few generations."[512]

Even though the whitening project received stronger attention after the abolition of slavery (1888), its implementation was initiated much earlier. For example, in 1808, the colonial regime provided financial assistance for expeditions of white Europeans to Brazil and gave the incentive of free land offers. In the same year (1808), the Swiss migration (catholic and French speaking) established the first colonies in Bahia, followed afterwards by another in Nova Friburgo in 1820. In 1824, the first German colony was established in São Leopoldo, south of Rio Grande do Sul. Between 1811 and 1830, more than 6.800 Germans immigrated to Brazil, mostly coming from Hesse, Prussia, Saxe, Württemberg, and Oldenburg. Until the beginning of the nineteenth century, this immigration trend was largely followed by Spanish and French.[513]

In 1911, the director of the National Museum, representing Brazil at the First International Racial Congress, publicly reinforced the eugenic rationale of the whitening project. In his words: "It is logical to assume that, at the entrance of the new century, the *mestiços* will have disappeared in Brazil, a fact that will coincide with the parallel extinction of the black race among us."[514] Likewise, the Brazilian sanitary Artur Neiva affirmed: "In a century, the nation will be white."[515] For several decades, the project of whitening the national population was institutionally and legally sustained in Brazil. The Constitutional Code of 1934 established in its article 121, paragraph 6 that:

A entrada de imigrantes no território nacional sofrerá as restrições necessárias à garantia da integração étnica e capacidade física e civil do imigrante, não podendo, porém, a corrente imigratória de cada país

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[512] Matos, *The Colours of the Empire. Racialized Representations During Portuguese Colonialism* at 29. Thomas Skidmore was one of the first scholars to deeply address the whitening project carried out in Brazil. In his book, "*Preto no Branco*" (Black in White), from 1974, Skidmore situates whitening as a scientific and political project from the late nineteenth century presented as the national solution to the post-abolition puzzle. According to Skidmore, the whitening was based on two major argumentative lines: i) black population was declining and becoming smaller than the white due to lower birth rates, higher incidence of diseases, and social disorganization; ii) miscegenation was producing a whiter population, partly because white genes were stronger and partly because people chose lighter partners. Based on such arguments, the achieved conclusion was that miscegenation would not produce "degenerates" – as once stated by some scientific racist theoreticians (such as the already mentioned Arthur de Gobineau and Louis Agassiz) –, if it creates a whiter "*mestiço*" population. See Thomas E. Skidmore, *Preto No Branco: Raça e Nacionalidade No Pensamento Brasileiro, 1870-1930* trans. Donaldson M. Garschagen (São Paulo: Companhia das Letras, 2012), Andreas Hofbauer, *Uma História De Branqueamento Ou O Negro Em Questão* (São Paulo: Editora UNESP, 2006a) at 20-21.

[513] Cf. Silva, 'População e Sociedade', at 41-42.

[514] See Schwarcz, *O Espetáculo Das Raças: Cientistas, Instituições e Questão Racial No Brasil (1870-1930)* at 11, 60. Michel Morange, 'Eugénisme', in Monique Canto-Sperber (ed.), *Dictionnaire D'Éthique Et De Philosophie Morale* (1; Paris: PUF, 1996) at 701. Skidmore, *Preto No Branco: Raça e Nacionalidade No Pensamento Brasileiro, 1870-1930* at 64, Hofbauer, *Uma História de Branqueamento ou o Negro Em Questão* at 20-1.

[515] See Skidmore, *Preto No Branco: Raça e Nacionalidade No Pensamento Brasileiro, 1870-1930* at 269.

exceder, anualmente, o limite de dois por cento sobre o número total dos respectivos nacionais fixados no Brasil durante os últimos cinqüenta anos.

The entry of immigrants into the national territory will suffer restrictions necessary to guarantee the immigrant's ethnic integration and physical and civil capacity. However, the immigration flow of each country cannot exceed the annual limit of 2% of the total number of the respective nationals set in Brazil during the last fifty years. [my translation]

On 18 September 1945, the presidential government of Getúlio Vargas issued the Decree law n. 7967 complementing the previous Constitutional law by stipulating that immigrants should be admitted in accordance with "the need to preserve and develop the ethnic composition of the population", defined as "the most convenient characteristics of their European descent."[516] In other words, the formation and maintenance of a white supremacy in the country was legally stipulated .

Mapping Whitening

As a way to demographically document the whitening of the population, Brazil started to produce a national census in the nineteenth and early parts of the twentieth century.[517] In 1872, the first general census presented a population separated into two tables, one referring to the free people and another to the enslaved people. The fragmented census demonstrates how the two groups were not part of a so-called unified nation.

Moreover, after the end of slavery (1888), the national census gathered in one single table the survey of population as a unified national body. It demarcates, therefore, the existence of a nation state in its integral geographic, political, and demographic unity. In 1893, only five years after the abolition of slavery, white Europeans represented already the largest part of the population, 62%, described as white in the largest city of Brazil, São Paulo, which demonstrates the dimension of the project. Such a number was almost five times that of the population described as black in the same area.[518]

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[516] Ibid., at 275-7.

[517] Loveman, *National Colors. Racial Classification and the State in Latin America* at 17, 243-4.

[518] Italians represented the most significant number of immigrants, followed by the Spanish and Portuguese. For instance, in 1900, 92% of São Paulo's industrial workers were foreigners, and of this total, 81% were Italians. It is not by chance that the striking movements like those of 1917 and 1919 were linked to these populations. The 1919 census indicated the existence of a large female contingent in factories, larger in São Paulo than in the southern states and Rio de Janeiro - presence of women and children in factories collaborated to reduce the average level of wages. See Pinheiro, Paulo Sergio. Classes médias urbanas: formação, natureza, intervenção na vida política. In: Fausto, Boris (org.). O Brasil republicano. São Paulo: Difel, 1978. V.3. p. 139 apud Schwarcz, 'População e Sociedade', at 57.

In *National Colors. Racial Classification and the State in Latin America* (2014), Mara Loveman demonstrates how national statistic agencies and censuses were strategic sites for ethnoracial classification of Latin American states. In the author's words:

> From the mid-nineteenth century, national statistics agencies were positioned at the intersection of three driving projects of modernization: the political project of developing the administrative infrastructure and authority of a modern state, the cultural project of constructing the communal bonds (the imagined community) of a modern nation, and the scientific project of generating demographic information to inform the enlightened pursuit of national progress. The distinctive ways in which these three modernizing missions—state-building, nation-making, and the scientific promotion of national development—were intertwined in the work of central statistics agencies makes them privileged sites for an investigation of when, why, and how modernizing states engage in ethnoracial classification of citizens.[519]

Moreover, instead of considering the census as an objective and neutral description of reality, Loveman conceptualizes it as "both stakes and instruments of politics. Census categories, in turn, are political products".[520]

In this respect, Abdias do Nascimento pointed out the way in which "the slogan of Brazilian racial democracy serves to mask racial discrimination and to gradually exterminate black people;" in this way, the myth of racial democracy "was the formula found to erase the burden of slavery" [my translation].[521]

All in all, the construction of the homogeneous unity of a "sovereign people" was based on the elimination of the Other. Instead of extermination and domination, the vocabulary of inclusion and integration has been the one used to designate the assimilation of Others into national whiteness homogeneity.[522]

Modern Democracy: Equality, Popular Sovereignty and Citizenship

After examining the invention of the imagined community of the nation state, this section addresses the formation of modern democracy. The elaboration brings attention to gender and sexuality, elements predominantly neglected by the debates on nationalism and national identity, which are centered on ethnicity, race and class. My purpose here is not to generally condemn the ideals of democracy and the rule of law as colonial mechanisms of power that inherently exclude peripheric, black, indigenous and female

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[519] Loveman, *National Colors. Racial Classification and the State in Latin America* at 6-7.
[520] Ibid., at 8-9.
[521] Abdias do Nascimento, *O Negro Revoltado* (Rio de Janeiro: Edições GRD, 1968) at 32.
[522] Balibar, 'Is There a 'Neo-Racism'?', at 25.

bodies from the political sphere. Rather, the attempt is to question the ways in which legal notions have become used as a means of perpetuating colonial othering, and therefore directly connected to political disputes and power relations.[523] Such an examination would enable, in the following chapter, to reflect on strategies of transformation concerning legal discourse and practice.

The notion of modern democracy has been one of the most contested concepts in our political and legal grammars, presented in a multiplicity of shapes and signifiers. Representative, republican, socialist, liberal, radical, imperialist, direct, social, participatory, anarchic, deliberative, plebiscite. For some, it is considered to be the new Western imperial discourse, and yet something not actually achieved by the Global North. For others, democracy is framed as the utmost triumph of modern and developed countries, a value that should be worldwide enhance and improve.[524]

As Stuart Hall explains, the modern nation state should not be defined only in terms of its chronological time scale. Rather, the modern nation state indicates a major transformation in the way power is institutionalized, bringing new understandings of mandate, authority and power based on more "contractual", liberal and constitutional forms of government.[525] In this way, instead of mapping the many signifiers that

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[523]In a similar direction, see Breny Mendoza, 'Los "Fundamentos No-Democráticos" De La Democracia: Un Enunciado Desde Latinoamérica Postoccidental', in Yuderkys Espinosa Miñoso, Diana Gómez Correal, and Karina Ochoa Muñoz (eds.), *Tejiendo De Otro Modo: Feminismo, Epistemología y Apuestas Descoloniales En Abya Yala* (Popayán, Colômbia: Editorial Universidad del Cauca, 2014b) at 135.

[524] Wendy Brown, *Undoing the Demos: Neoliberalism's Stealth Revolution* (New York: Zone Books, 2015) at 19.

[525] Hall, *Sin Garantias. Trayectorias Y Problemáticas En Estudios Culturales* at 527-8.

democracy could convey,[526] the current analysis opts to focus on its material formation through the interplay of equality, citizenship and representation.

The transition from Monarchy to Republic marked the necessity to legitimate the political and legal institutions via a different source than the transcendental authority of a King or prince. Instead of a political leader chosen by heaven, Constitutional Code institutionalized a new regime of democracy named as representative democracy, constitutional democracy, liberal democracy, or pluralist democracy.[527]

As Chantal Mouffe explains, what makes modern democracy properly 'modern' is the reemergence of the old democratic principle that "'power should be exercised by the people' but this time within a symbolic framework informed *by* the liberal discourse, with its strong emphasis on the value of individual liberty and on human rights."[528]

In this respect, modern representation combines two traditions: the liberal and the democratic. On the one hand, political liberalism refers to the notions of the rule of law, the separation of powers and the defense of individual freedom. On the other hand, the democratic tradition presents equality and popular sovereignty as central ideals. Thus,

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[526] Boaventura de Souza Santos provides a helpful mapping of debates around the concept of democracy. Accordingly, from the first half of the 20th century, the debate centered in the question of desirability or not of democracy (Cf. Weber (1919). Economy and Society. Berkeley: University of California Press; Schmitt (1926). The crisis of parliamentary democracy. Cambridge: MIT Press; Kelsen (1929). "Essência e valor da democracia". In *A Democracia*. São Paulo: Martins Fontes; Michels (1949). Political Parties. Glencoe: Free Press; and Schumpeter (1942). Capitalism, socialismo, and democracy. New York, London: Harper & Brothers). From the second half of the 20th century, the debates engaged mainly with the structural conditions of democracy, framing three key topics: i) procedure and form, ii) role of bureaucracy, and iii) inevitability of representation in large scale democracies (Cf. Moore (1966). Social origins of dictatorship and democracy: lord and peasant in the making of the modern world. Boston: Beacon Press; O'Donnell (1973). Modernization and bureaucratic authoritarianism: studies in South American politics. Berkeley: Institute of International Studies, University of California; Przeworski (1985). Capitalism and social democracy. Cambridge, New York: Cambridge University Press; Bobbio (1979). Marxismo e Estado. Rio de Janeiro: Graal; Dahl (1998). On Democracy. New Haven: Yale University Press). Finally, there was also scholars criticizing these lines – named as hegemonic – of conceptualization of democracy (Cf. Lefort (1986). Pensando o político. São Paulo: Paz e Terra; Castoriadis (1986). As encruzilhadas do labirinto. São Paulo: Paz e Terra; Habermas (1995). Between Facts and Norms. Cambridge: MIT Press; Lechner (1988). Los Patios Interiores da Democracia. Mexico: Fondo de Cultura Economica; Bóron (1994). Estado, capitalismo e democracia na América Latina. São Paulo: Paz e Terra; Nun (2000). Democracia gobierno del Pueblo o gobierno de los políticos? Buenos Aires: Fondo de Cultura). More, see see Boaventura De Sousa Santos, 'Para Ampliar O Cânone Democrático', in Boaventura De Sousa Santos (ed.), *Democratizar a Democracia: Os Caminhos Da Democracia Participativa* (Rio de Janeiro: Civilização Brasileira, 2002), 39-82.

[527] Influenced by the federalist movements from the United States, the Constitutional Code of Brazil (1891) consecrated not only the republican system, but also the presidential (mandate of 4 years) and the federal regime with greater autonomy for the states on the grounds that they not contradict the Federal Constitution. More, see Alexander Hamilton, James Madison, and John Jay, The Federalist. A Commentary on the Constitution of the United States (Philadelphia: J. B. Lippincott & CO., 1864). Ellen Meiksins Wood, *Democracy against Capitalism. Renewing Historical Materialism* (2003 edn.; Cambridge: Cambridge University Press, 1995) at 213. Quijada, 'Introducción', at 24.

[528] Chantal Mouffe, *The Democratic Paradox* (London, New York: Verso, 2000) at 1-2.

liberal democracy creates another type of indeterminate authority by combining the notions of common will and political representation.[529]

Instead of the top-down nature of theocratic authority, the notion of a sovereign people emerge as the modern source of political power. In this way, modern democracy produced a major transformation in the conceptualization of what is a citizen. The ancient notion of what constituted a citizen was related to the moral element of *virtú* in relation to absolutist monarchical regimes, as argued by authors such as Niccolò Machiavelli (1531). The modern citizen is defined by freedom, rationality and responsibility; all of which are necessary elements to guarantee the political legitimacy of the modern nation state. That is to say, citizenship embodied the abstract notion of "the people" or popular sovereignty in the legal terms of *persona ficta* from juridical tradition.[530]

> The citizen is not, as in liberalism, someone who is the passive recipient of specific rights and who enjoys the protection of the law. It is not that those elements become irrelevant but the definition of the citizen shifts because the emphasis is put on the identification with the *respublica*. It is a common political identity of persons who might be engaged in many different purposive enterprises and with differing conceptions of the good, but who accept submission to the rules prescribed by the *respublica* in seeking their satisfactions and in performing their actions. What binds them together is their common recognition of a set of ethico-political values. In this case, citizenship is not just one identity among others - as in liberalism - or the dominant identity that overrides all others - as in civic republicanism. It is an articulating principle that affects the different subject positions of the social agent (as I will show when I discuss the public/private distinction) while allowing for a plurality of specific allegiances and for the respect of individual liberty.[531]

Regarding the mentioned "*respublica*", the Republic was proclaimed by the force and brutality of the army in Brazil. Through a military *coup*, the Royal family was substituted by the military general Deodoro da Fonseca (1889-1891). The association between the new republican regime and white masculinity was plainly expressed in its militarized establishment responsible for expressly connecting political power, military arms and white men, as argued by Richard Miskolci in the book *O desejo da nação:*

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[529] Mouffe, *For a Left Populism* at 23-4. Hall, *Sin Garantias. Trayectorias y Problemáticas En Estudios Culturales* at 542.

[530] Quijada, 'Introducción', at 17-21. Balibar, 'The Nation Form: History and Ideology', at 77.

[531] Chantal Mouffe, 'Democratic Citizenship and the Political Community', in Chantal Mouffe (ed.), *Dimensions of Radical Democracy. Pluralism, Citizenship, Community* (London: Verso, 1992a) at 235.

masculinidade e branquitude no Brasil (2013).[532] The Republic consolidates the discourse of pluralism coined in the idea of individual liberty. The separation of church and state required making a distinction between the private and the public domain.[533]

In absolutist regimes, the ruler (private) and the state (public) were often indistinguishable. Differently, in the modern nation state, the state should separate the public office from the person who occupies it. In this regard, what is public is everything that is owned, organized or administered directly by the state, while what is private is that which is outside the direct control of the state, in other words, that which is left for voluntary and non-mandatory arrangements between private individuals. There are two dimensions of the private sphere in modern society: the domestic zone of the family; and the individual sphere where the state should not interfere. In this way, the division between private and public implied, on the one hand, connecting the public to the nation state, politics, community, work, authority, power, responsibility; while, on the other hand, associating the private to the individual, the domestic, the intimate, the invisible, the non-political.[534]

According to Ernesto Laclau, "if democracy is possible, it is because the universal has no necessary body and no necessary content."[535] Diverging from his valid theoretical input, the universal actually has a very identifiable body throughout modern history: the white-male-heterosexual-cisgender body. That is to say, legislation and public policies have historically produced and reproduced masculinized and whiteness forms of institutional power.[536] In the same direction, Kirstie McClure states that "the historicity of the mode subject and that of western masculinity are, to be sure, intimately connected."[537]

Drawing on that, I argue that the citizen is the national version of the figure of the *pater* (father) in a patriarchal family. That is to say, the legal vocabulary updates the

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[532] Miskolci, *O Desejo Da Nação: Masculinidade E Branquitude No Brasil De Fins Do XIX* at 31. According to Raymundo Faoro, the element that make the army to support the Republican was the rupture with the relationship of privileges with the monarchy. For instance, during nine years of Portuguese rule, Dom Pedro I nominated twelve men from the army to the Senate and five (for a total of fourteen) to the Council of State. However, during the nine years of the government of Dom João, only two senators were indicated from the military force. Moreover, the modern bourgeois values regarded a producer as the only useful element in society and despised someone, such as a military man, who does not plant, manufacture, or make wealth circulate. See Raymundo Faoro, *Os Donos Do Poder. Formação Do Patronato Político Brasileiro* (Rio de Janeiro: Globo, 1958) at Chapter XII, Victor Nunes Leal, *Coronelismo, Enxada e Voto: O Município e o Regime Representativo No Brasil* (São Paulo: Editora Companhia das Letras, 1949).

[533] Mouffe, 'Democratic Citizenship and the Political Community', at 227.

[534] Ibid., at 537-8.

[535] Ernesto Laclau, "Universalism, Particularism and the Question of Identity," in *Emancipation(s)*, 35.

[536] More, see Olsen, 'The Sex of Law', at 453. Bartlett, 'Feminist Legal Methods', Severi, *Lei Maria Da Penha E O Projeto Jurídico Feminista Brasileiro* at 37.

[537] Mcclure, 'On the Subject of Rights: Pluralism, Plurality and Political Identity', at 111.

colonial dialectics between human or non-human to the figures of citizen or non-citizen. As a result of the combination of democratic and liberal traditions, citizens "are seen as using their rights to promote their self-interest within certain constraints imposed by the exigency to respect the rights of others," definition that "leaves no room for a 'constitutive' community."[538]

In Brazil, the modern notion of a citizen was first and foremost embodied by the former figure of a colonial settler or slave master: the white men.[539] The vote was initially only possible if *aberto* (open ballot system, in opposition to the secret form), grounded on the ideal notion of a courageous citizen/voter who holds the conditions to support *his* political convictions. Hebe Mattos characterized it as the "heroic model of citizenship",[540] which I name white patriarchal citizenship. In other words, poor, black, indigenous men and women, and white women were not included in the notion of a citizen, and therefore could not vote or be elected. Despite its discourse of equality, the legal system assured the complete exclusion of women from the political sphere.[541]

The legal notion of equality was central in legitimizing the new regime of democratic representation. According to the electoral qualification decree from 1889, "all Brazilian citizens in the enjoyment of their civil and political rights, who know how to read and write" have the right to vote and to be voted for. By law, everyone was equal. In practice, less than five percent of the population could actually vote or run for office.[542]

Literacy (read and write) was the translation of colonial social privileges previously used in terms of property ownership. In *Disassembling Legal Form. Ownership and the Racial*

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[538] Chantal Mouffe, 'Democratic Citizenship and the Political Community', ibid. at 226-7. More, see Saffioti, *A Mulher Na Sociedade De Classes: Mito E Realidade* at 13.

[539] Chaui, *Manifestações Ideológicas Do Autoritarismo Brasileiro* at 226.

[540] Hebe Mattos, 'A Vida Política', in Lilia Moritz Schwarcz (ed.), *História Do Brasil Nação: 1808-2010* (3, A Abertura para o mundo: 1889-1930; Rio de Janeiro and Madrid: Objetiva and MAPFRE, 2012) at 91-3.

[541] See also Pateman, *The Sexual Contract*. Mendoza, 'La Epistemologia Del Sur, Colonialidad de Genero y Feminismo', at 26. Additionally, in 1909, Monteiro Lopes was the first black deputy elected in Brazil. Such a result brought strong rumors that his mandate would not be recognized. As an attempt to guarantee the effectiveness of Lopes' mandate, black militants organized a large political campaign involving the creation of a committee as well as the initiation of a judicial process in order to ensure the possibility of fulfilling the mandate. At the end, Monteiro Lopes was able to undertake his political position as deputy. Nevertheless, the case demonstrates the precarity that marginalized people were subjected to in this so-called equal and democratic representative regime. Cf. Mattos, 'A Vida Política', at 118.

[542] Before the abolition of slavery (1888), Brazilian electoral law was strategically reformed (1881), raising the minimum required income, allowing only 1% of the population to actually vote or run for elections. And a risk regarding the possibility of insurgency or revolution, as the one experienced in Haiti (1791-1804). Cf. Mattos, 'A Vida Política', at 89, 108, 14. Alberto Da Costa e Silva, 'População E Sociedade', ibid. (1, Crise Colonial e Independência 1808-1830; Rio de Janeiro: Objetiva, 2011) at 36. Rowland, 'Patriotismo, Povo e Ódio Aos Portugueses: Notas Sobre a Construção Da Identidade Nacional No Brasil Independente', at 375-6. Miskolci, *O Desejo Da Nação: Masculinidade e Branquitude No Brasil De Fins Do XIX* at 17. Loveman, *National Colors. Racial Classification and the State in Latin America* at 20. Schwarcz, 'As Marcas Do Período', at 25.

Body (2012), Brenna Bhandar points out that property ownership was a central element needed for the constitution of legal and political subjectivity.[543] As demonstrated throughout this investigation, legal discourse played a decisive role in securing private property, capital accumulation, mass exploitation, and privileges for a bourgeois white heterosexual male subject.[544]

Furthermore, modern democracy was primarily legitimized by the fiction of a shared common will translated as the will of the majority. Despite the problem that most of the population (less than 5% in the period) could not actually vote,[545] the concept of modern democracy was also somehow reduced to the individual right to vote.

Moreover, the principle of "majority rule" could lead to a deeper marginalization of the fragmented Othered – the black, indigenous, lesbian, bisexual, trans, poor, disabled, women – the so-called 'minorities'.[546] The next chapter examines the struggles from the grassroots to survive and transform the binary geopolitics of the center-margin, public-private, political-domestic, man-woman, white-nonwhite.

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[543] Bhandar, 'Disassembling Legal Form. Ownership and the Racial Body', at 116-8.

[544] In the same direction, see Brown, *Undoing the Demos: Neoliberalism's Stealth Revolution* at 44. David Theo Goldberg, 'Racial States', in David Theo Goldberg and John Solomos (eds.), *A Companion to Racial and Ethnic Studies* (Massachusetts: Blackwell Publishers, 2002) at 233-9. Mills, *The Racial Contract*, Pateman, *The Sexual Contract.*

[545] Mattos, 'A Vida Política', at 89, 108, 14. Segato, 'Femigenocidio Como Crimen En El Fuero Internacional De Los Derechos Humanos', at 618.

[546] Santos, 'Para Ampliar O Cânone Democrático', at 49.

Disputing Democracy, Reimagining Community:

Moving *from Below* and *from Within*

If we restrict ourselves only to the use of those dominant power games which we have been taught to fear, but which we still respect because they have worked within an antihuman context, then we risk defining our work simply as shifting our own roles within the same oppressive power relationships, rather than as seeking to alter and redefine the nature of those relationships. This will result only in the eventual rise of yet another oppressed group, this time with us as overseer. But our unique position within this system is to constantly question its most cherished assumption and to radically change it, not merely to co-opt it and make it work for us.

<div align="right">Audre Lorde[xii]</div>

They can rule the world while they can persuade us
our pain belongs in some order.
Is death by famine worse than death by suicide,
than a life of famine and suicide, if a black lesbian dies,
if a white prostitute dies, if a woman genius
starves herself to feed others,
self-hatred battening on her body?
Something that kills us or leaves us half-alive"
[…]
 I'm alive to want more than life,
want it for others starving and unborn,
to name the deprivations boring
into my will, my affections, into the brains
of daughters, sisters, lovers caught in the crossfire
of terrorists of the mind.
In the black mirror of the subway window
hangs my own face, hollow with anger and desire.
Swathed in exhaustion, on the trampled newsprint,
a woman shields a dead child from the camera.
The passion to be inscribes her body.
Until we find each other, we are alone.

<div align="right">Adrienne Rich[xiii]</div>

Colonized and colonizer, object and subject, invaded and invader, dispossessed and owner, worker and master, *emprega* and *patroa*, victim and aggressor. Private and public, domestic and political, individual and communal, reproduction and production, woman and man, particular and universal, family and state. Ontological, epistemological, social, political and legal binaries that have been produced and reproduced, in various shapes, in different contexts, until today.

Carrying the excessive burden of colonial legacies, women have been the most vigorous presence in social mobilizations in Latin America.[547] Their struggle to survive has been redefining politics through everyday life. Struggling for land, housing, education, health, child-care, reproductive rights, institutional and political representation, better labor conditions, environmental care. Craving non-commodified relations with the land and nature. Against neoliberal developmental and neo-extractivist agendas, police violence, the genocide of black youth. Struggling *from below*. Struggling *from within*. From the grassroots, from the streets, from political parties, from advocacy, women have mobilized towards redefining the notion of work, community and democracy.

Their struggle to invent other forms of coexistence has trembling the neocolonial structures of nation. Ergo, as we know, we currently face a conservative reaction materialized in the form of a globalization of authoritarian governments.[548] Without ignoring the different local conjunctures, this dissertation points out two common factors of such a transnational tendency. Firstly, the weakening of institutional legitimacy. In recent years, democratic elections frequently evoke the frustration of choosing between

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[547] For more on this, see Gohn, *Novas Teorias Dos Movimentos Sociais* at 134, 56. Gonzalez and (Eds.), *Lugar De Negro*, Jennifer M. Piscopo and Gwynn Thomas, 'Challenging Gender Inequality within the State: Policy Agencies and Quota Laws in Latin America', in Tomás Došek et al. (eds.), *Women, Politics, and Democracy in Latin America. Crossing Boundaries of Gender and Politics in the Global South* (New York: Palgrave Macmillan, 2017) at 71. Marielle Franco, 'Mulher, Negra, Favelada E Parlamentar: Resistir É Pleonasmo', in Linda Rubim and Fernanda Argolo (eds.), *O Golpe Na Perspectiva De Gênero* (Salvador: Edufba, 2018) at 123. Irene Silverblatt, 'Prólogo', *No Se Puede Descolonizar Sin Despatriarcalizar. Teoría Y Propuesta De La Despatriarcalización* (La Paz, Bolivia: Mujeres Creando, 2013) at 6. Simone Da Silva Ribeiro Gomes, Marcia Rangel Candido, and Talita São Thiago Tanscheit, 'Gender, Feminist Activism and Conservatism in Latin America: An Interview with Flavia Biroli, Flavia Freidenberg and Veronica Gago', *NORUS*, 7/11 (Jan/Jul 2019b) at 81.

[548] Regarding the classification of "progressive" and "far-right wing", most political debates and analysis have been framed within a two-dimensional spectrum: horizontally divided by left and right and vertically by authoritarian and libertarian/progressive. In this respect, the first split often refers to the role of the state in the economy, while the second represents the position concerning social and cultural policies and the discourse of human rights and the politics of rights. Cf. Eszter Kováts, 'Limits of the Human Rights Vocabulary in Addressing Inequalities – Dilemmas of Justice in the Age of Culture Wars in Hungary', *Intersections East European Journal of Society and Politics* 5/2 (2018), 60-80.

the "lesser evil", or as if "there is no alternative". [549] These sentiments are the result of large dissatisfaction with the traditional parties that do not take into account the most popular interests and voices. Additionally, the discourse of liberal democracy has been saturated particularly regarding the debates around identity politics, political correctness and human rights' discourses.

Authoritarian populists acknowledge the sentiment of disappointment produced by the undelivered promises of the politics of rights. Drawing on the instability that the transformative context of identity, law, economy and politics brings, popular sovereignty points to a crisis of legitimacy delineated by the nationalistic grammar of "we, the people", as the majority of Ones who have been harmed by the minority of Others. That is to say, such feelings were somehow coopted and translated into terms of anti-politics, anti-system and anti-intellectualism, as if politics, and in some cases also media and academia, were essentially bad or morally corrupt. As a result, we face a profound depoliticization of the legal discourse and of the politics itself, that has been permeated by fear, insecurity, exhaustion and pessimism.[550]

Secondly, drawing on the aforementioned feelings, the far-right solution has been based on a wide-open discourse against specific groups in society. The neocolonial Others. Often embodied by the black, indigenous, non-white, women, LGBTIQ+ people, immigrants and refugees.[551]

The term "gender ideology" has been emphatically evoked to designate any position in which gender is addressed within legal, social, historical, and political contexts. Everything outside the realm of the essentialized and dehistoricized biological frame of reference has been attacked as "ideological." In sum, the terminology refers to the marginalization, dismantling and even criminalization of policies, academic research,

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[549] This is epitomized by Margaret Thatcher's TINA slogan: "There Is No Alternative". See Mouffe, *The Democratic Paradox* at 80, Boaventura De Sousa Santos and César A. Rodriguez-Garavito, 'Expanding the Economic Canon and Searching for Alternatives to Neoliberal Globalization', in Boaventura De Sousa Santos (ed.), *Another Production Is Possible: Beyond the Capitalist Canon* (London: Verso, 2006).

[550] More, see Eszter Kováts, Weronika Grzebalska, and Andrea Pető, 'Gender as Symbolic Glue. How 'Gender' Became an Umbrella Term for the Rejection of the (Neo)Liberal Order', *Luxemburg. Gesellschaftanalyse und Linke Praxis. Breaking Feminism,* (2018), 32-37 at 32, 37. Weronika Grzebalska and Eszter Kováts, 'Beyond the Anti-Women Backlash. How We Can Understand Women's Support for the Right in Poland and Hungary', *International Politics and Society,* (8.12 2018) at 2. Agnieszka Graff, Ratna Kapur, and Suzanna Danuta Walters, 'Introduction: Gender and the Rise of the Global Right', *Signs: Journal of Women in Culture and Society. The University of Chicago,* 44/3 (2019), 1-22 at 4. Eszter Kovats, 'Questioning Consensuses: Right-Wing Populism, Anti-Populism, and the Threat of 'Gender Ideology'', *Sociological Research Online. SAGE,* 23/2 (2018), 528–38 at 5. ibid., at 8. Mouffe, *The Democratic Paradox* at 80.

[551] More, see Nancy Fraser, 'From Progressive Neoliberalism to Trump —and Beyond', *American Affairs,* 11 (20.11.2017 2017), 15 at 1. Peter Beinart, 'The New Authoritarians Are Waging War on Women', *The Atlantic,* 2019, sec. Global.

cultural events, political agendas and social mobilizations concerned with women, gender identity and sexuality.[552]

The recognition of feminism as the main target of the conservative reaction does not imply a reduction of the complexity of authoritarian populism to a dichotomic or simplistic reading translated as misogynists versus feminists. Rather, it means to perceive the national election of such representatives as symptoms of a deeper collapse of neocolonial structures.

In this way, the researcher Eszter Kováts argues that gender has been the vocabulary used as a "symbolic glue" that metaphorically unities conservative tendencies.[553] Moving a step further, this work perceives it not only as a metaphor, but as the historical "glue" named by this work as the mechanism of othering that has been enacted by the hyper-masculinized institutions of democracy. In other words, the multifaceted collapse of the politics of rights (political and legal), the neocolonial model of development (labor, economic and environmental), and the liberal form of democracy (legal and political) are "glued" together by gender not only symbolically.

Instead of framing the current crisis in terms of backlash and apocalypse, this final chapter attempts to give visibility to strategies, counter-projects and micropolitics carried out by peripheric bodies *from below* and *from within* the continual decolonial dispute of politics, rights and new forms of living together as an actual and not merely imagined community.[554] Drawing on the experiences of peripheric women as body-archives, this chapter analyzes the collapse through the framework of four neocolonial structures of power relations: (i) politics of rights; (ii) division of labor; (iii) feminicide; (iv) judicial

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[552] Depending on the context, gender ideology has also been translated nowadays as "genderism", "gender theory", "Gayropa", "cultural Marxism", or "political correctness". Already in 1995, Connell described "modern gender ideology" as the belief that naturalizes, biologizes and incorporates gender roles to the very nature of physical bodies. In his words: "True masculinity is almost always thought to proceed from men's bodies - to be inherent in a male body or to express something about a male body. Either the body drives and directs action (e.g., men are naturally more aggressive than women; rape results from uncontrollable lust or an innate urge to violence), or the body sets limits to action (e.g., men naturally do not take care of infants; homosexuality is unnatural and therefore confined to a perverse minority. These beliefs are a strategic part of modern gender ideology, in the English-speaking world at least)". Cf. Connell, *Masculinities* at 45. More, see Kováts, Grzebalska, and Pető, 'Gender as Symbolic Glue. How 'Gender' Became an Umbrella Term for the Rejection of the (Neo)Liberal Order', at 33, Kováts, 'Questioning Consensuses: Right-Wing Populism, Anti-Populism, and the Threat of 'Gender Ideology'' Gomes, Candido, and Tanscheit, 'Apresentação Dossiê Feminismos Na América Latina: Movimentos Sociais, Estado E Partidos Políticos', at 8. Biroli, *Gênero e Desigualdades: Os Limites Da Democracia No Brasil* at 173-4. Gomes, Candido, and Tanscheit, 'Gender, Feminist Activism and Conservatism in Latin America: An Interview with Flavia Biroli, Flavia Freidenberg and Veronica Gago', at 71.

[553] Cf. Kováts, Grzebalska, and Pető, 'Gender as Symbolic Glue. How 'Gender' Became an Umbrella Term for the Rejection of the (Neo)Liberal Order'.

[554] See Mohanty, *Feminism without Borders. Decolonizing Theory: Practicing Solidarity* at 59. Falú, 'Violence and Discrimination in Cities', at 23. Hooks, *The Will to Change. Men, Masculinity, and Love* at 65.

system; and (v) institutional politics. Different from romanticizing the precarious struggle to survive or to reduce it into "pitched battles for survival",[555] this research examines their practices in order to reinvent local mobilizations where community is no longer imagined but collectively created.

(i) Politics of Rights

As excavated throughout this dissertation, the popular struggle for rights has been a constant feature of modern democracy. The rhetoric of rights and the globalization of the slogan "the right to have rights" constituted an intrinsic part of mainstream feminist claims that were initially situated in the women's suffrage movement. Notwithstanding the articulation of feminism and the law, such a relation has still been crossed by resistances, ambivalences and paradoxes.[556]

In her milestone book, *A Vindication of the Rights of Woman* from 1796, Mary Wollstonecraft (1759-1797) adopts the language of rights to defend a woman's right to access education. By applying the rationalistic terminology from the 18th century, Wollstonecraft states that "men, in general, seem to employ their reason to justify prejudices, which they have imbibed, they can scarcely trace how, rather than to root them out".[557]

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[555] The notion of "pitched battles for survival" is mentioned in this quote: "Having poisoned the atmosphere, mocked every pretense of democratic rule, stretched our social capacities to their breaking point, and worsened living conditions generally for the vast majority, this iteration of capitalism has raised the stakes for every social struggle, transforming sober efforts to win modest reforms into pitched battles for survival." Cf. Arruzza, Bhattacharya, and Fraser, *Feminism for the 99%. A Manifesto.*

[556] See Smart, *Feminism and the Power of Law* at 140-3. Stephanie Degooyer et al., *The Right to Have Rights* (London, New York: Verso, 2018), Smart, *Feminism and the Power of Law*, Williams, 'Alchemical Notes: Reconstructing Ideals from Deconstructed Rights', Arvonne S. Fraser, 'Becoming Human: The Origins and Development of Women's Human Rights', *Human Rights Quarterly*, 21/4 (1999), 853-906, Tamayo, 'Current Debates on Safety: A Women's Human Rights Approach', Maclaren, 'Decolonizing Rights: Transnational Feminism and "Women's Rights as Human Rights"', Sally Engle Merry, *Human Rights and Gender Violence. Translating International Law into Local Justice*, eds William M. O'Barr and John M. Conley (Law and Society; Chicago, London: The University of Chicago Press, 2006), Silvia Rivera Cusicanqui, 'The Notion of "Rights" and the Paradoxes of Postcolonial Modernity Indigenous Peoples and Women in Bolivia', *Qui Parle*, 18/2 (2010a), Christina Wolbrecht, *The Politics of Women's Rights. Parties, Positions, and Change* (Princeton, New Jersey: Princeton University Press, 2000), Elisabeth Jay Friedman (Ed.), *Seeking Rights from the Left. Gender, Sexuality, and the Latin American Pink Tide* (Durham and London: Duke University Press, 2019), Mary Wollstonecraft, *A Vindication of the Rights of Woman: With Strictures on Political and Moral Subject* (Third edn.; London: J. Johnson, n° 72. Paul's Church Yarf, 1796), Bunch, 'Women's Rights as Human Rights: Toward a Re-Vision of Human Rights', Gohn, *Novas Teorias Dos Movimentos Sociais* at 12.

[557] Wollstonecraft, *A Vindication of the Rights of Woman: With Strictures on Political and Moral Subject* at 16.

Her vindication inspired women around the world, as in the case of Nísia Floresta (1810-1885) in Brazil. In 1832, Floresta wrote *Direito das mulheres e injustiça dos homens* (Women's Rights, Men's Injustice), a sort of translation of Wollstonecraft's book. In 1838, Floresta founded the first school for women in Brazil, the *Colégio Augusto* located in Rio de Janeiro.[558]

The claim for rights was the strategy used afterwards to vindicate the right to vote, a crucial feature of modern democracy. According to the law from 1881 (Brazilian Legal Decree 3029, article 2, par. 10), a "voter" could be any person with "scientific or literary diplomas of any legally recognized faculty, academy, school or institution, national or foreign." Isabel de Sousa Mattos, a white woman from the elite, fulfilled such a requirement but still was denied her right to vote. She became the first woman to legally reclaim the right to vote in Brazil during the elections of 1885. Despite her judicial victory, after the fall of the Monarchy and the beginning of the Republic (1889), the law was changed and, therefore, the decision allowing her the right to vote was no longer valid under the new Republican regime.

The claim for the right to vote and be voted for constituted the so-called "first wave of feminism," which meant the emergence of feminism as a form of mass politics.[559] Nísia Floresta (1810-1885), Bertha Luz (1894-1976), Mietta Santiago (1903-1995), Celina Guimarães Viana (1890-1972), and Luiza Alzira Soriano Teixeira (1897-1963), are some

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[558] See Floresta, 'Direito Das Mulheres e Injustiça Dos Homens [1832]'. Rezzutti, *Mulheres Do Brasil: História Não Contada* at 167-8.

[559] For more on the different waves of feminism, see Nancy Fraser, *Scales of Justice. Reimagining Political Space in a Globalizing World* (2010 edn.; New York: Columbia University Press, 2009) at 101-3. Connell, *Masculinities* at 191.

examples of activists in the Brazilian suffragette movement that were inspired by the Western movement.[560]

Despite the relevance of women's suffrage, its achievement presented a very limited scope of woman's rights since it did not include the poor and the illiterate, the very situation in which most black and indigenous women found themselves in during the period. While exposing the patriarchal character of the legal system, the suffragettes did not pay attention to the racist, classist and heteronormative dimensions of the same national structure.

By examining suffrage as the emergence of feminist movements, the analysis highlights two main points. Firstly, the transition "*from* subjection *to* subjectivity" was based on the claim for rights and legal inclusion, translated in terms of a shift "from subordination to effective citizenship."[561] While affirming the subject as a privileged political agent (the citizen), the language of human rights was transformed into the language of *individual* rights. Secondly, the institutional structures of the nation state were framed as not only privileged but as the almost exclusive site for political actions by citizens. As a consequence of the individualization of emancipation centered in the state, equality becomes meritocracy.[562] That is to say, instead of transforming the neocolonial

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[560] In 1911, Leolinda de Figueiredo Daltro (1859-1935) together with other women founded the *Partido Republicano Feminino* (Female Republican Party). The incongruous scenario of being able to establish an official party but not being entitled to vote or run for office was used to expose the denial of women's rights. At the book *Voto Feminino e Feminismo* from 1923, Diva Nolf Nazário described her judicial and extrajudicial claims to be enlisted as an elector in 1922. Nazário also argued that the legal text (article 70, Constitution from 1891) refers to "all citizens", in an abstract and universal plural which should include both men and women. Nevertheless, the court decided to not alter the previous decision. The legal decision negated her request, arguing that: i) a woman's mission is more domestic/private than public, more moral than political; ii) the notion of femininity is associated biologically to a woman as a creature destined to share with a man the responsibilities of common life – while she stays in the tranquility of home, he works to provide for their subsistence. In other words, the legal decision made use of a legal vestment to reinforce socially constructed notions of what genders should or should not perform. In her appeal, Nazário pointed out that the consequence of such traditional and non-juridical argument was to deny women the status of citizen. (Cf. Diva Nolf Nazário, *Voto Feminino E Feminismo, Um Ano De Feminismo Entre Nós* (2009 edn.; São Paulo: Imprensa Oficial 1923)). As a result of the political pressure exercised by several women, in 1927, the right to vote was extended to some regions in Brazil by municipal law. In 1928, Luísa Alzira Teixeira Soriano (1887-1963) was elected mayor of the city of Lajes (state of Rio Grande do Norte), becoming the first woman mayor in Latin America. Celina Guimarães Viana (1890-1972) and Julia Alves Barbosa (1898-1943) was the first women registered to vote in Brazil. Cf. Rezzutti, *Mulheres Do Brasil: História Não Contada* at 169-72.

[561] Mcclure, 'On the Subject of Rights: Pluralism, Plurality and Political Identity', at 109-10. Mary Dietz, 'Context Is All: Feminism and Theories of Citizenship', ibid. at 77.

[562] Kirstie Mcclure, 'On the Subject of Rights: Pluralism, Plurality and Political Identity', ibid. at 109-10. Mary Dietz, 'Context Is All: Feminism and Theories of Citizenship', ibid. at 77. Smart, *Feminism and the Power of Law* at 152. Hooks, *The Will to Change. Men, Masculinity, and Love* at 147.

structures of violence, equality was reduced to the demand of inclusion into the category of the One (a citizen with rights), and that reinforced the dichotomic othering. [563]

Liberal feminists conceive feminism as a project of self-promotion based on individual rights, equal opportunities and economic empowerment. Recently, the target was updated as corporate or lean-in feminism. By combining together feminism and capitalism, they completely ignore the material interplay of gender, colonialism and capitalism previously examined by this investigation.[564]

There is a vast debate on the meanings of liberalism and neoliberalism within the scholarship. In *Undoing the Demos* (2015), Wendy Brown describes the difficulties in defining neoliberalism in a way that invokes a broad spectrum of activities:

> deregulation of industries and capital flows; radical reduction in welfare state provisions and protections for the vulnerable; privatized and outsourced public goods, ranging from education, parks, postal services, roads, and social welfare to prisons and militaries; replacement of progressive with regressive tax and tariff schemes; the end of wealth redistribution as an economic or social-political policy; the conversion of every human need or desire into a profitable enterprise, from college admissions preparation to human organ transplants, from baby adoptions to pollution rights, from avoiding lines to securing legroom on an airplane; and, most recently, the financialization of everything and the increasing dominance of finance capital over productive capital in the dynamics of the economy and everyday life. [565]

In this respect, this work adopts the conceptualization of neoliberalism as developed by the scholars Wendy Brown and Veronica Gágo, influenced by Michel Foucault. Different from eighteenth century liberalism, neoliberalism arises after the mid 1940s, after Nazism in Germany. While liberalism sustained the freedom of the market within the state, neoliberalism perceives the market as the very foundation and legitimation of a "nonexistent" state. That is to say, we went "from a market supervised by the state to a state supervised by the market." [566] Beyond saturating the meaning of

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[563] More, see Saffioti, *O Poder Do Macho* at 15-16. Federici, 'Reproduction and Feminist Struggle in the New International Division of Labour (1999)', at 66. Nascimento, 'Negro E Racismo', at 102. Cornwall and Molyneux, 'The Politics of Rights – Dilemmas for Feminist Praxis: An Introduction', at 1185. Kováts, 'Limits of the Human Rights Vocabulary in Addressing Inequalities – Dilemmas of Justice in the Age of Culture Wars in Hungary', at 74. Marilena Chaui, *Sobre a Violência*, eds Ericka Marie Itokazu and Luciana Chaui-Berlinck (Escritos De Marilena Chaui, 5; Belo Horizonte: Autêntica Editora, 2017) at 275, Williams, 'Alchemical Notes: Reconstructing Ideals from Deconstructed Rights', Nancy Fraser, 'Women, welfare and the politics of needs interpretation', in Fraser (ed), Unruly Practices, Cambridge: Polity Press, 1989.

[564] Arruzza, Bhattacharya, and Fraser, *Feminism for the 99%. A Manifesto* at 11. Susana Draper, 'Strike as Process: Building the Poetics of a New Feminism', *The South Atlantic Quarterly. Duke University Press,* July /Against the Day (2018) at 686, Lina Gálvez Muñoz et al., *Feminismo Frente Al Neoliberalismo: Estrategias y Alianzas* (Spain: Forum Politica Feminista, 2013). Curiel, 'Rethinking Radical Anti-Racist Feminist Politics in a Global Neoliberal Context', at 46. Arruzza, 'From Social Reproduction Feminism to the Women's Strike', at 193.

[565] Brown, *Undoing the Demos: Neoliberalism's Stealth Revolution* at 28.

[566] Ibid.

democracy with market values, "neoliberalism assaults the principles, practices, cultures, subjects, and institutions of democracy understood as rule by the people," states Brown.[567] In the same direction, in *Neoliberalism from Below* (2017), Gágo stresses how "its maximum radicalization is how society as a whole becomes a business, as a dynamic of management of a growing necessity of freedom-security."[568]

The economical formulation of neoliberalism by the Chicago School materialized for the first time in Latin America, during the dictatorship in Chile (1973). Coincidence or not, colonialism and neoliberalism were first experienced in Latin America, both based around the ideals of extractivism, privatization, accumulation and dispossession. Regarding Brazil, the model was introduced afterwards during the governments of Collor de Mello (1990-1992), Itamar Franco (1992-1994) and finally consolidated in the government of Fernando Henrique Cardoso (1994-2002).[569]

Recalling again the examination of liberal feminism, this dissertation addresses the articulation of neoliberalism, politics of rights and individualism. Women's movements require another cartography which takes into consideration a longer and more radical genealogy of feminisms – in plural –, especially regarding the contributions from Latin America, re-named by feminists as *Abya Yala* and *Améfrica Ladina.*[570]

Re-Mapping Feminisms

Since colonization, native and black women have been resisting structural violence in Brazil, as is shown by the historical examples of Dandara dos Palmares (-1694), Luiza Mahin, Aqualtune, Anastásia (1740-), Esperança Garcia (1751-), Maria Felipa de Oliveira (-1873), Tia Ciata (1854-1924), Tereza de Benguela (during the 18th century), Tia Simoa, Maria Firmina dos Reis (1822-1917), and many other counter-narratives that were burned

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[567] Ibid., at 9.

[568] Gago, *Neoliberalism from Below. Popular Pragmatics and Baroque Economies* at 156-7.

[569] More, see Marcus Taylor, *From Pinochet to the 'Third Way': Neoliberalism and Social Transformation in Chile* (London: Pluto Press, 2006), Carlos Eduardo Martins, 'Neoliberalismo e Desenvolvimento Na América Latina', in Jaime Estay Reyno (ed.), *La Economia Mundial Y América Latina: Tendencias, Problemas Y Desafios* (Buenos Aires: CLACSO, 2005), Susan Stokes, *Mandates and Democracy. Neoliberalism by Surprise in Latin America* (New York: Cambridge University Press, 2004).

[570] On "Abya Yala", see Francesca Gargallo, *Feminismos Desde Abya Yala. Ideas Y Proposiciones De Las Mujeres De 607 Pueblos En Nuestra América* (Bogotá: Ediciones Desde Abajo, 2015), Lorena Cabnal, 'Acercamiento a La Construcción Del Pensamiento Epistémico De Las Mujeres Indígenas Feministas Comunitarias De Abya Yala', in Acsur-Las Segovias (ed.), *Feminismos Diversos: El Feminismo Comunitario* (Madrid: ACSUR-Las Segovias, 2010). On "Améfrica Ladina*"*, see Gonzalez, 'A Categoria Político-Cultural de Amefricanidade'.

in the colonial archives.[571] In this respect, the term *ialodê* refers to the ancestral organization of black women.[572]

By denouncing how hegemonic white feminism was not able to respond to the complexity and diversity of women's experiences and positionalities, peripheric women residing in the 'Global North' proposed new methodologies, narratives and practices as black feminisms or as 'Third-World' feminists. Sojourner Truth (1797-1883), Angela Davis, Audre Lorde (1934-1992), Toni Morrison (1931-2019), Patricia Collins, bell hooks, Alice Walker, Kimberlé Crenshaw, Grada Kilomba, Chandra Talpade Mohanty, Gayatri Chakravorty Spivak, are only a few names of the feminists engaged in sewing a broader and critical dialogue among intersectional feminists "of color".[573] They articulate racism, sexism, colonialism, slavery, capitalism as interwoven and interconnected elements not only of the past but in the production of today.[574]

Fostering a diasporic dialogue, black women in Brazil invoke the importance of *enegrecer o feminismo* (blackening feminism).[575] Lélia Gonzalez (1935-1994), Virginia Leone Bicudo (1910-2003), Carolina Maria de Jesus (1914-1977), Antonieta de Barros (1901-1952), Laudelina de Campos Melo (1904-1991), Maria Beatriz Nascimento (1942-1995), Luiza Bairros (1953-2016), Jurema Werneck, Sueli Carneiro, Conceição Evaristo, Edna Roland, Vilma Piedade, Djamila Ribeiro, are some of the leading voices in the

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[571] Cf. Américo Jacobina Lacombe, Eduardo Silva, and Francisco De Assis Barbosa, *Rui Barbosa E a Queima Dos Arquivos* (Brasília and Rio de Janeiro: Ministério da Justiça; Fundação Casa de Rui Barbosa, 1988) at 11-26.

[572] Werneck, 'Nossos Passos Vêm De Longe - Movimentos De Mulheres Negras e Estratégias Políticas Contra o Sexismo e o Racismo', at 14.

[573] Many critical authors adopt the designation "people of color" in order to include all non-white people such as black, indigenous, chicanas, Latinas, etc. However, this investigation considers such a concept problematic. This is because it reinforces the idea that only non-white people are colored or racialized, an idea that runs the risk of placing white people in a category of non-colored and therefore non-racialized. Different from that, this work recognizes racialization as a colonial process that creates both the white and the black categories of 'race', as argued in chapter zero.

[574] More, see Magdalena Valdivieso Ide, 'Otros Tiempos y Otros Feminismos En América Latina y El Caribe', in Alba Carosio (ed.), *Feminismos Para Un Cambio Civilizatorio* (Buenos Aires and Caracas: CLACSO, Fundación Celgar and Centro de Estudios de la Mujer, 2014) at 26. Chandra Talpade Mohanty, 'Bajo Los Ojos De Occidente Academia Feminista Y Discurso Colonial.', in Liliana Suárez Navaz and Rosalva Aída Hernández Castillo (eds.), *Descolonizando El Feminismo: Teorías Y Prácticas Desde Los Márgene* (Madrid, Spain: Editorial Cátedra, [1986] 2008). Breny Mendoza, *Ensayos De Crítica Feminista En Nuestra América* (México D. F.: Herder, 2014b). Miñoso, 'Ethnocentrism and Coloniality in Latin American Feminisms: The Complicity and Consolidation of Hegemonic Feminists in Transnational Spaces', Curiel, 'Descolonizando El Feminismo: Una Perspectiva Desde America Latina Y El Caribe', Curiel, Falquet, and Masson, 'Editorial: Feminismos Disidentes En América Latina Y El Caribe', Claudia De Lima Costa and Eliana Ávila, 'Gloria Anzaldua, a Consciência Mestiça E O "Feminismo Da Diferença"', *Estudos Feministas,* 13/3 (2006), 691-703. Crenshaw, 'Mapping the Margins: Intersectionality, Identity Politics, and Violence against Women of Color.'

[575] Carneiro, 'Mulheres Em Movimento', at 118, Carneiro, 'Ennegrecer Al Feminismo La Situación De La Mujer Negra En América Latina Desde Una Perspectiva De Género'.

construction of Afro-Brazilian feminist thought.[576] They unearth the interplay of racism and sexism as the foundational myths of racial democracy and *mestiçagem* in the making of national identity and in the ongoing violence today.[577]

In this regard, many Brazilian black feminists have adopted the notion of *dororidade* coined by Vilma Piedade, instead of *sororidade* (sorority/sisterhood) generally used by Latin American feminists. *Dororidade* ("painhood" in the sense of a shared suffering) specifically addresses the colonial burden and aggravated pain implicated in not only being a woman but also black in a patriarchal and white supremacist nation.[578] Articulation (or intersectionality), *protagonismo*, *ancestralidade*, *dororidade*, *lugar de fala*, and community addressed in relation with *ubuntu* and *quilombo*, forms part of their grounding vocabulary. Some were already defined, and the others will be addressed during the analysis of this chapter.

Moreover, such colonial wounds directly invoke the notion of *ancestralidade* (ancestral roots) as a continual and historical resistance. The recognition that *nossos passos vêm de longe*[579] (our steps come from far away) brings to the forefront the relational aspect of temporalities, while reconnecting the present struggles to the *ancestralidade* represented by the black mothers, grandmothers, and great grandmothers, unrooted from African communities and brought to Brazil as slaves. It situates the achievements and mobilizations of today within a longer and Afrodiasporic genealogy of struggle.

The notion of *ancestralidade* is also invoked by indigenous women. Sewing a net among their ancestral knowledges, the *feminismo comunitario* (communitarian or community feminism) has been mainly represented by the work of Julieta Paredes, Rosa Tzunux,

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[576] More, see Luiza Bairros, 'Nossos Feminismos Revisitados', Estudos Feministas, Ano 3/2 (1995), 458-63. Lélia Gonzalez, 'Por Um Feminismo Afrolatinoamericano', *Caderno de Formação Política do Círculo Palmarino, Batalha de Ideias*, 1 (1988). Ochy Curiel, 'Crítica Poscolonial Desde Las Prácticas Políticas Del Feminismo Antirracista', *Nómadas, Universidad Central - Colombia*, /n° 26 (2007b), 92-101, Ochy Curiel, 'Los Aportes De Las Afrodescendientes a La Teoría y La Práctica Feminista. Desuniversalizando El Sujeto 'Mujeres'', in María Luisa Femenias (ed.), *Perfiles Del Feminismo Iberoamericano* (3; Buenos Aires: Catálogo, 2007a).

[577] More, see Carneiro, 'Mulheres Em Movimento', at 118. Curiel, Falquet, and Masson, 'Editorial: Feminismos Disidentes En América Latina y El Caribe', at 7-8.

[578] The concept of *dororidade* was coined by the black feminist Vilma Piedade. Cf. Vilma Piedade, *Dororidade* (São Paulo: Nós, 2017). The Bolivian feminist Maria Galindo poses critiques on framing pain as a mobilizing factor for social struggle. See Galindo, *No Se Puede Descolonizar Sin Despatriarcalizar. Teoría y Propuesta De La Despatriarcalización* at 57-60.

[579] Werneck, 'Nossos Passos Vêm de Longe - Movimentos De Mulheres Negras e Estratégias Políticas Contra o Sexismo e o Racismo'.

Lorena Cabnal, and Gladys Tzul.[580] The recent compilations *Feminismos desde Abya Yala. Ideas y proposiciones de las mujeres de 607 pueblos en nuestra América* (2015), *Mujeres indígenas y formas de hacer política* (2018) and *Literatura indígena brasileira contemporânea* (2018) provide significant contributions to the literature.[581] Nevertheless, the literary works of Graça Graúna, Márcia Kambeba and Eliane Potiguara, confront the ongoing epistemicide of the indigenous women in Brazil. In addition to *ancestralidade*, the grammar of territory, body, nature and *buen vivir*/community can be highlighted as important concepts of the movement.

Beyond the earthy grounds of the plantation, territory presents a wider reading that alludes to *ancestralidade*. It is the site where past generations were buried, and the future generation will come. Additionally, the territory refers to the material space for practicing their cosmovision in terms of cultural, religious, social, environmental and political activities within the community. It encompasses histories, knowledges and forms of co-existence.[582] Acknowledging the interplay of ancestrality and physicality, the concept of *territorio cuerpo-tierra* (territory body-earth) or *cuerpoterritorio* (bodyterritory) frames body

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[580] See Julieta Paredes, 'Despatriarcalización - Una Respuesta Categórica Del Feminismo Comunitario (Descolonizando La Vida)', *Bolivian Studies Journal / Revista de Estudios Bolivianos,* 21 (2015), 100-15, Julieta Paredes and Adriana Guzmán, *El Tejido De La Rebeldía. Qué Es El Feminismo Comunitario?* (La Paz: Comunidad Mujeres Creando, 2014), Julieta Paredes, *Hilando Fino: Desde El Feminismo Comunitario. Comunidad Mujeres Creando Comunidad* (La Paz: Cooperativa El Rebozo, 2010), Moira Millán, 'Mujer Mapuche. Explotación Colonial Sobre El Territorio Corporal', in Karina Bidaseca and Vanesa Vasquez (eds.), *Feminismos Y Poscolonialidad. Descolonizando El Feminismo Desde y En América Latina* (Buenos Aires: Editorial Godot, 2011), Rosa Tzunux, *Representaciones Sociales Mayas y Teoría Feminista: Crítica De La Aplicación Literal De Modelos Teóricos En La Interpretación De La Realidad De Las Mujeres Mayas* (Antigua: Ediciones del Pensativo, 2007), Cabnal, 'Acercamiento a La Construcción Del Pensamiento Epistémico De Las Mujeres Indígenas Feministas Comunitarias De Abya Yala', Gargallo, *Feminismos Desde Abya Yala. Ideas Y Proposiciones De Las Mujeres De 607 Pueblos En Nuestra América*, Silvia Riveira Cusicanqui, 'La Noción De 'Derecho' O Las Paradojas De La Modernidad Postcolonial: Indígenas Y Mujeres En Bolivia', in Yuderkys Espinosa Miñoso, Diana Gómez Correal, and Karina Ochoa Muñoz (eds.), *Tejiendo De Otro Modo: Feminismo, Epistemología Y Apuestas Descoloniales En Abya Yala* (Popayán, Colômbia: Editorial Universidad del Cauca, 2014), Gargallo, 'Presentación'.

[581] See Julie Dorrico et al., *Literatura Indígena Brasileira Contemporânea. Criação, Crítica E Recepção* (Porto Alegre: Editora Fi, 2018), Gargallo, *Feminismos Desde Abya Yala. Ideas y Proposiciones De Las Mujeres De 607 Pueblos En Nuestra América*, Mariana Gómez and Silvana Sciortino, 'Introducción', in Mariana Gómez and Silvana Sciortino (eds.), *Mujeres Indígenas y Formas De Hacer Política. Un Intercambio De Experiencias Situadas Entre Brasil y Argentina* (Temperley: Tren en Movimiento, 2018).

[582] More, see Paredes, 'Despatriarcalización - Una Respuesta Categórica Del Feminismo Comunitario (Descolonizando La Vida)', at 102. Graciela Alonso and Raúl Díaz, 'Cuerpo y Territorio Desde Lo Alto De Una Torre: Visibilidad, Protagonismo y Resistencia De Mujeres Mapuce Contra El Extractivismo', in Mariana Gómez and Silvana Sciortino (eds.), *Mujeres Indígenas Y Formas De Hacer Política. Un Intercambio De Experiencias Situadas Entre Brasil Y Argentina* (Temperley: Tren en Movimiento, 2018) at 27, 37. Cabnal, 'Acercamiento a La Construcción Del Pensamiento Epistémico De Las Mujeres Indígenas Feministas Comunitarias De Abya Yala'.

and territory as political and ontological spaces of dispossession, agricultural poisoning, deforestation, not only of the soil but of their own bodies.[583]

Last but not least, the decolonial reading of feminism have been built by various activists and writers from *América Ladina* such as María Lugones, Ochy Curiel, Espinosa Miñoso, Catherine Walsh, Rita Segato, Silvia Rivera Cusicanqui, Francesca Gargallo, Sylvia Wynter, Maria Galindo, Breny Mendoza, Karina Bidaseca, etc.[584] Notwithstanding the different terminologies and significations invoked by them – e.g. *colonialismo interno,* coloniality of gender, *despatriarcalización* –, they *together* produced an epistemic turn in the knowledge production of Western feminist practices and the political agenda in the region.[585] This strand performs a methodological rupture with colonialized and masculinized guises of socialization, knowledge production, and experience. That is to say, it demands a new political practice for redefining our current liberal democracies, neocolonial nation states, and social commons.

All in all, this mapping selected the four already mentioned strands (black, Third-World, communitarian, and decolonial feminisms) for their crucial contribution in the making of this dissertation. Nevertheless, the combined strands of feminisms are much vaster than the main ones outlined, comprehending syndicalist, classist, anarchist,

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[583] Cf. Cabnal, 'Acercamiento a La Construcción Del Pensamiento Epistémico De Las Mujeres Indígenas Feministas Comunitarias De Abya Yala', at 22. Paredes, 'Despatriarcalización - Una Respuesta Categórica Del Feminismo Comunitario (Descolonizando La Vida)', at 106. Segato, 'Femigenocidio Como Crimen En El Fuero Internacional De Los Derechos Humanos', at 138. Alonso and Díaz, 'Cuerpo Y Territorio Desde Lo Alto De Una Torre: Visibilidad, Protagonismo Y Resistencia De Mujeres Mapuce Contra El Extractivismo', at 41, 45, Segato, *La Guerra Contra Las Mujeres*, Segato, 'Patriarchy from Margin to Center: Discipline, Territoriality, and Cruelty in the Apocalyptic Phase of Capital'.

[584] Cf. Cusicanqui, *Ch'ixinakax Utxiwa. Una Reflexión Sobre Prácticas Y Discursos Descolonizadores*, Silvia Rivera Cusicanqui, *Sociología De La Imagen. Miradas Ch'ixi Desde La Historia Andina* (Buenos Aires: Tinta Limón, 2015), Cusicanqui, *Violencias (Re)Encubiertas En Bolivia*, Lugones, 'Colonialidad Y Genero', Lugones, 'Toward a Decolonial Feminism', Curiel, 'Descolonizando El Feminismo: Una Perspectiva Desde America Latina Y El Caribe', Ochy Curiel, 'Hacia La Construcción De Un Feminismo Descolonizado', in Yuderkys Espinosa Miñoso (ed.), *Aproximaciones Críticas a Las Practicas* (1; Buenos Aires: En la Frontera, 2010), Ochy Curiel, 'La Descolonización Desde Una Propuesta Feminista Crítica', *Feminista Siempre. Descolonización Y Despatriarcalización De Y Desde Los Feminismos De Abya Yala* (ACSUR - LAS SEGOVIAS (Associació per la cooperació amb el Sud), 2015), Miñoso, 'Ethnocentrism and Coloniality in Latin American Feminisms: The Complicity and Consolidation of Hegemonic Feminists in Transnational Spaces', Miñoso, 'Una Crítica Descolonial a La Epistemología Feminista Crítica', Segato, 'Colonialidad Y Patriarcado Moderno: Expansión Del Frente Estatal, Modernización, Y La Vida De Las Mujeres', Catherine Walsh, 'Interculturalidad, Plurinacionalidad Y Decolonialidad: Las Insurgencias Político-Epistémicas De Refundar El Estado', *Tabula Rasa*/9 (2008), Walsh, 'Interculturalidad Y (De)Colonialidad: Diferencia Y Nación De Otro Modo', Galindo, *No Se Puede Descolonizar Sin Despatriarcalizar. Teoría Y Propuesta De La Despatriarcalización*, Wynter, 'Towards the Sociogenic Principle: Fanon, the Puzzle of Conscious Experience, of "Identity" and What It's Like to Be "Black"', Mendoza, 'La Epistemologia Del Sur, Colonialidad De Genero Y Feminismo'. Karina Bidaseca and Vanesa Vasquez (ed.). Feminismos y poscolonialidad. Descolonizando el feminismo desde y en América Latina. Buenos Aires: Editorial Godot. 2011.

[585] Miñoso, 'Una Crítica Descolonial a La Epistemología Feminista Crítica', at 7.

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popular, socialist, liberal, abolitionist, radical, environmentalist, dissident, counter-hegemonic, intersectional, etc.[586]

Bearing on that, this work adopts "peripheric feminisms" as an umbrella term that permeates the four mentioned strands. The term offers the potentiality to cover a variety of movements, such as youth collectives at schools and universities, hip hop women, black *travesti* women artistic activism, slam *das mina*, poetry reading circles, corporeal interventional performances, community based women's organization, zines and independent publications, *mãe de santo* from Candomblé and Umbanda's *terreiros* (Afro-Brazilian religious headed by women), bloggers, vloggers and online influencers connecting tips to take care of Afro-hair to veganism and political empowerment of black women.[587] In sum, female bodies pushed to the periphery of institutional politics and legal discourses.

By re-mapping feminisms from the periphery, this analysis recognizes the necessity of offering a broader picture of the movements beyond the written works mentioned. By this I mean, the chapter engages with the oral histories shared by women from the grassroots as crucial knowledge for reading the strategies and articulations today.[588]

First and foremost, analyzing the meaning of the term grassroots, "grass-roots" alludes to territory, earth, nature, circle of life, plantation (grass); as well as to *ancestralidade*, memories and legacies (roots). Its connection to the root should not be comprehended in terms of stillness, rigidity, fixedness or an absence of movement. Rather, it symbolizes a geopolitical location from the bottom, the ground, where peripheric bodies have been placed and from where they have been historically and continually in a movement of

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[586] More, see Domitila De Chungara, *La Mujer y La Organización* (La Paz, Bolivia: Publicación de Unitas, CIDOB, CIPCA, 1980). Chungara and Viezzer, *"Si Me Permiten Hablar…" Testimonio De Domitila, Una Mujer De Las Minas De Bolivia.* Galindo, *No Se Puede Descolonizar Sin Despatriarcalizar. Teoría Y Propuesta De La Despatriarcalización* at 19-20. Stephen, *Women and Social Movements in Latin America. Power from Below* at 276-7. Arruzza, 'From Social Reproduction Feminism to the Women's Strike', at 194.

[587] See Bairros, 'Nossos Feminismos Revisitados', at 463, Ribeiro, *Quem Tem Medo Do Feminismo Negro?*, Jonas Medeiros, 'Do "Feminismo Popular" Ao "Feminismo Periférico": Mudanças Estruturais Em Contrapúblicos Da Zona Leste De São Paulo', *NORUS,* 7/11 (Jan/Jul 2019) at 335.

[588] More on oral histories, see Gargallo, *Antología Del Pensamiento Feminista Nuestroamericano. Tomo I. Del Anhelo a La Emancipación* at 12, Márcia Wayna Kambeba, 'Literatura Indígena: Da Oralidade À Memória Escrita', in Julie Dorrico et al. (eds.), *Literatura Indígena Brasileira Contemporânea. Criação, Crítica E Recepção* (Porto Alegre: Editora Fi, 2018), Werneck, 'De Ialodês e Feministas - Reflexões sobre a Ação Política das Mulheres Negras Na América Latina E Caribe', Cusicanqui, 'El Potencial Epistemológico y Teórico De La Historia Oral: De La Lógica Instrumental a La Descolonización De La História', Yuderkys Espinosa Miñoso, 'Prólogo', in Yuderkys Espinosa Miñoso (ed.), *Aproximaciones Criticas a Las Practicas* (1; Buenos Aires: En la Frontera, 2010) at 7.

struggling not to be smashed. Consequently, their movements from below necessarily trembles the entire structure where the neocolonial nation state has been grounded.

~~Identity Politics and Recognition?~~ Articulation and Survival

Women engaged with grassroots movements have been collectively organizing in various segments such as labor unions, syndicates, neighborhood associations, student collectives in schools and universities, political parties, popular radio stations, religious initiatives, etc. These spaces are commonly mixed organizations in terms of gender, race, sexuality, class, etc.

Despite the fact of defending a common agenda, mixed mobilizations have reproduced social stigmas and stereotypes, often naturalized and internalized within their daily practices. In this regard, many of the women I spoke with reported how male activists constantly silence, interrupt, or do not take their claims seriously. Indeed, this problem does not only concern right wing or conservative groups but is also present in left and progressive circles.[589]

As bell hooks states, "many of these men were radical thinkers who participated in movements for social justice, speaking out on behalf of the workers, the poor, speaking out on racial justice. But when it came to the issue of gender they were as sexist as their conservative cohorts."[590] This critique was raised by many activist women interviewed during this research. Many of them decided to leave mixed groups for sexist behaviors, and also for racism, and trans* and lesbian invisibility.

The search for autonomy does not necessarily imply isolation. Rather, it refers to the necessity of freely creating safe spaces to foster care, articulations and strategies for transformation. An example of the fact that it does not equate to isolation can be perceived by the first national feminist encounter in Rio de Janeiro (1979). They gathered together collectives of black and white women to debate strategies for the women's movements in the country.[591] In this respect, they articulated autonomous organization

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[589] More, see David Backer and Katen Cairns, 'Meeting Needs. If Movements' Labor Produces Change in Society, Who Then Produces the Movement?', *N+1* Online Only (April 9 2019). Saffioti, *O Poder Do Macho* at 17. Costa and James, *The Power of Women and the Subversion of the Community*.

[590] Hooks, *Feminism Is for Everybody. Passionate Politics* at 67. More, see Saffioti, *O Poder Do Macho* at 17.

[591] More, see Rios, 'A Cidadania Imaginada Pelas Mulheres Afro-Brasileiras: Da Ditadura Militar À Democracia', at 238. Severi, *Lei Maria Da Penha E O Projeto Jurídico Feminista Brasileiro* at 106.

within a broader and forbidden alliance among women who have been raised to compete and envy each other.[592]

"Identity politics" has been the term used to refer to these movements. According to the dominant reading, identity politics is the struggle for recognition carried by the "new social movements" which are identity-based and therefore different from the previous anti-colonial and class struggles.[593] In this regard, this examination problematizes the dualistic differentiation within the scholarship between identity politics and classic/social politics as a fallacious comprehension of the ongoing struggles.

Recalling the first use of the term, identity politics was introduced by the black lesbian feminist organization Combahee River Collective, based in the United States, in 1977. By recognizing the divisions of intersectional identity produced by liberal politics, and here I would add the previous colonial politics of othering, the collective emphasizes the importance of coalitions as crucial for their own survival, and name them identity politics.[594]

Drawing on that, this dissertation problematizes the mainstream reading of identity politics that situates the organization of black, indigenous, lesbian, trans* and *travesties* women as being the only 'identity-based' movements. Such a framework reinforces the binary division in which 'mixed' mobilizations are perceived as a neutral, universal, disembodied One, without race, gender or sexuality. In other words, white-heterosexual-male-classist movements are described as 'the' political movement, in opposition to the 'particular' and 'identity-based' movements carried out by 'the Others'. I follow Asad Haider in her critique of the current use of identity politics to neutralize social movements as "the ideology that emerged to appropriate this emancipatory legacy in service of the advancement of political and economic elites."[595] That is to say, the mainstream politics of mixed organizations are also based on identity. When a social movement expressly indicates that gender, sexuality or race are not part of its agenda, it

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[592] Butler, *Undoing Gender* at 9. Galindo, *No Se Puede Descolonizar Sin Despatriarcalizar. Teoría Y Propuesta De La Despatriarcalización* at 77.

[593] More, see Fraser, *Scales of Justice. Reimagining Political Space in a Globalizing World* at 102, Rajagopal, *International Law from Below. Development, Social Movements, and Third World Resistance*, Stuart Hall, 'Introduction: Who Needs 'Identity'?', in Stuart Hall and Paul Du Gay (eds.), *Questions of Cultural Identity* (London, Thousand Oaks, New Delhi: Sage Publications, 1996), Crenshaw, 'Mapping the Margins: Intersectionality, Identity Politics, and Violence against Women of Color.'. Gohn, *Novas Teorias Dos Movimentos Sociais* at 13-5, 132-3.

[594] Collective, 'The Combahee River Collective's Statement'.

[595] Asad Haider, *Mistaken Identity: Race and Class in the Age of Trump* (London and New York: Verso, 2018) at 25.

necessarily implies that the center point of view has been adopted and covered as ungendered, non-racialized, and without sexual orientation.

The issues of domestic violence, child-care assistance, territoriality, precarious labor, access to knowledge, institutional discrimination, political party sexism, invoked by several women I have spoken with in the fieldwork highlights how the various axes of marginalization involving gender, race, sexuality and class must be addressed side by side. Peripheric activisms have been based on the necessity of surviving (*dororidade*). As described by one black activist from Salvador: "it is very hard, because the work in the periphery is a work that does not let you sleep, when your [female] neighbor runs out of gas, she knocks on your door. Here [in the periphery], you understand these [social] relations in a different way [than in the city center]." That is to say, the challenge to survive is not an individual challenge but a collective one.

Protagonismo (protagonism) is a concept strongly invoked by black feminists in recognizing the historical struggle and political agency of women, especially of black, poor and indigenous bodies.[596] The concept stresses their role as subjects and protagonists of history, instead of colonial objects. The precarious living conditions that force peripheric women to daily bear the heavy burdens of survival should not be confused with a romantic view of a heroin or myth of a black superwoman.[597] Rather, the heavy burden configures a dehumanized and precarious position that exhausts peripheric bodies up to the point of their emotional and physical demise. Indeed, the feeling of exhaustion was repeatedly emphasized by the peripheric women that I spoke to in this investigation.

Ergo, the peripheric women's movements are not framed by this work in terms of 'new social movements', 'identity politics', or as struggles for 'recognition'. Additionally, they are moved by social and political transformation, and not by merely self-interest. Rather, this dissertation argues that the struggles of peripheric women not only disrupt the mechanism of othering directed against their bodies, but necessarily tremble the entire structure of violence in which contemporary democracy has been based.[598]

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[596] Gonzalez, 'Racismo e Sexismo Na Cultura Brasileira'.

[597] Cf. Werneck, 'Nossos Passos Vêm De Longe - Movimentos De Mulheres Negras E Estratégias Políticas Contra o Sexismo e o Racismo'. Michele Wallace, *Black Macho and the Myth of the Superwoman* (2015 edn.; London: Verso, 1978).

[598] More, see Biroli, *Gênero e Desigualdades: Os Limites Da Democracia No Brasil*, Gomes, Candido, and Tanscheit, 'Gender, Feminist Activism and Conservatism in Latin America: An Interview with Flavia Biroli, Flavia Freidenberg and Veronica Gago', at 70. Stephen, *Women and Social Movements in Latin America. Power from Below* at 275.

For the outlined reasons, the endless scholarly clash between identity politics and traditional politics is considered an inaccurate framework of the contemporary scenario of political struggles. For the same reasons, the notion of a 'new social movement' and the binary division between 'recognition' and 'distribution' are also challenged by this work.[599]

(ii) Which Working Class?

As previously examined in chapter zero, the modern concept of the worker emerged within the colonial division of labor. Whether in the popular imaginary or Marxist theory, the notions of the worker and the working class have been historically associated with the image of the male factory worker. [600] In this respect, this section proposes to resituate both notions within a gender perspective.

In the previous conceptualization of colonial othering, the dissertation examined how the chief of the family was always defined as the man, the worker who should provide for the entire family. In 1872, the term *chefe de família* (head of the family) was defined by the first Brazilian census exclusively as the *homem da casa* (man of the house). Again, in 1950, the census mentions the "head of the house and his wife". Thus, both censuses indicate the form in which the notion of head of the household was perceived: the heterosexual man.[601]

On one side of the division, the definition of worker and *chefe de família* has been exclusively male-centered, named by political theorists as *homo economicus*, and here called neocolonial masculinity.[602] As a consequence, the workers' organizations have been designed by and for male workers, grounded in the classic context of factories,

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[599] Mouffe, 'Preface', at 8-9, Mcmillan, *Feminists Organising against Gendered Violence* at 26-34, Rajagopal, 'International Law and Social Movements: Challenges of Theorizing Resistance', at 407-8. Fraser, *Scales of Justice. Reimagining Political Space in a Globalizing World* at 105-8.

[600] More, see Luxemburg, *The Accumulation of Capital* at 350. Connell, *Masculinities* at 55-6. Hooks, *The Will to Change. Men, Masculinity, and Love* at 136, Mohanty, *Feminism without Borders. Decolonizing Theory: Practicing Solidarity* at Chapter 6.

[601] Only in 2010, did the PNAD start to deal with the question of whether the responsibility for the household is embodied in only one person and not more residents of the family. IPEA, 'Dossiê Mulheres Negras. Retrato Das Condições De Vida Das Mulheres Negras No Brasil', at 24-5.

[602] By adopting the Gramscian reading of "hegemony", Connell coined the concept "hegemonic masculinity" referring to the cultural dynamic by which a group claims and sustains a leading position in social life. "Hegemonic masculinity can be defined as the configuration of gender practice which embodies the currently accepted answer to the problem of the legitimacy of patriarchy, which guarantees (or is taken to guarantee) the dominant position of men and the subordination of women". Cf. Connell, *Masculinities* at 77.

institutionalized in the form of unions, syndicates and even political parties. Nevertheless, the hyper-masculinized role of the *chefe de família* brings the heavy pressure of economic provisions. Such a role shapes socially and emotionally male bodies in terms of competition, aggression, ambition, financialization of desires, and commodification of others. At the same time that the othering mechanism places male bodies in a privileged position, it also necessarily deprives them of a large spectrum of possibilities such as the expression of sensibility, emotion, insecurity, fragility, or vulnerability.

On the other side, women and social reproduction labor have been systematically excluded from the definition of worker and work. Not only the housewife, but also the *empregada* (female domestic worker) have been isolated inside the private sphere of the home, a territoriality that constitutes a significant obstacle for their political organization. Not by coincidence, domestic workers have been one of the most neglected sectors of the working class in Latin America.[603]

Historically, domestic service work has not even received the same legal guarantees provided to any ordinary work by the Brazilian Labor Law ("*Consolidação das Leis de Trabalho*" or CLT) from 1943. For example, in the 1988 Brazilian Constitution, of the thirty-four outlined principles concerning worker's rights (article 7), only nine stipulations were applicable to the domestic worker. Consequently, their labor conditions are one of the most neglected and precarious.

From the abolition of slavery (1888) until today, domestic work as a profession has predominantly been done by black women in Brazil. Many upper and middle class people, predominantly white, have lived their entire lives with full-time domestic servants, who most often were poor, black and indigenous women.[604]

As described by a black activist woman from the periphery of Salvador, the majority of women taking public transportation early in the morning are going to the city center to take care of white women's households and children. As a result of the structural lack of a public child-care system, most black women have to leave their own children without anyone to care for. They usually rely on their neighbors' help to *passar o olho* (to

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[603] Elsa M. Chaney and Mary Garcia Castro, 'Introduction: A New Field for Research and Action', in Elsa M. Chaney and Mary Garcia Castro (eds.), *Muchachas No More. Household Workers in Latin America and the Caribbean* (Philadelphia: Temple University Press, 1989) at 4.

[604] Hildete Pereira De Melo, 'Feminists and Domestic Workers in Rio De Janeiro', in Elsa M. Chaney and Mary Garcia Castro (eds.), *Muchachas No More. Household Workers in Latin America and the Caribbean* (Philadelphia: Temple University Press, 1989) at 261.

take a quick look in on [their children]) or to the older child to be responsible for the younger ones.[605]

Similarly, Angela Davis describes how, in millions of white homes in the United States, black women who have been hired as housekeepers, are in a position akin to surrogate wives and mothers.[606] Indeed, according to Silvia Federici, such context territorialized a global process called the "new international division of labour", which presents strong antifeminist characteristics. In Federici's words:

> Starting in the early' 90s there has been a leap in female migration from the Global South to the North, where they provide an increasing percentage of the workforce employed in the service sector and domestic labor. […] this "solution" is problematic as it creates a "maids-madams" relation among women, complicated by the biases surrounding housework: the assumption that it is not real work and should be paid as little as possible, that it does not have defined boundaries and so forth. The employment of a domestic worker, moreover, makes women (rather than the state) responsible for the work of reproduction and weakens the struggle against the division of labor in the family, sparing women the task of forcing their male partners to share this work.[607]

Drawing on that, the classic notion of the housewife has been updated by the neoliberal form of precarious, low-wage and socially-deprecated domestic work performed by women in todays' families; or by the *empregada* hired to replace the work allocated to the wife in terms of social reproductive labor. In other words, even when financially independent, a woman is still the one responsible for taking care of the household tasks or for hiring, as a *patroa*, another woman to take care of them.[608] Such a neoliberal dynamic as this replaces public infrastructures in its providing for basic services of child-care, health, care, nutritional needs. It fosters the privatization and overexploitation of female bodies and reproductive work. That is to say, the neoliberal

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[605] Geledés and Criola, 'A Situação Dos Direitos Humanos Das Mulheres Negras No Brasil. Violências E Violações', at 11. Nascimento, 'A Mulher Negra E O Amor', at 128.

[606] Davis, *Women, Race and Class*.

[607] Federici, 'Reproduction and Feminist Struggle in the New International Division of Labour (1999)', at 71.

[608] As described by the Brazilian historian Beatriz Nascimento, in the early phase of industrialization [1930], white women participated in the workforce due to the decline of traditional industries, especially the textile industry. They were concentrated in low-level bureaucratic jobs, which, despite being poorly paid, required a certain level of educational qualification. The same situation did not happen for black women for two main reasons. First of all, black women did not have access to education. Secondly, because these jobs required contact with the public, the owners would not hire black women for them based on racial criteria. See Nascimento, 'A Mulher Negra No Mercado De Trabalho', at 105. More, see Elizabeth Kuznesof, 'A History of Domestic Service in Spanish America, 1492-1980', in Elsa M. Chaney and Mary Garcia Castro (eds.), *Muchachas No More. Household Workers in Latin America and the Caribbean* (Philadelphia: Temple University Press, 1989) at 29, Hildete Pereira De Melo, 'Feminists and Domestic Workers in Rio De Janeiro', ibid. at 246.

answer for female emancipation does not offer any possibility of effectively transforming the colonial structures of marginalization.[609]

Drawing on the narratives of indigenous women who immigrated to Manaus, a common pattern of exploitative domestic work is identified by this work. They described similar stories of migrating very young and lonely – one of them was only ten years old when she did so. In this situation, most worked as domestic servants without any payment, contract or worker's rights. Also, they worked and lived in the same house of the family, commonly in a tiny room next to the kitchen, where they had their meals alone and could not receive friends or relatives.[610] They faced a vulnerable position when moving to an urban city, especially in regard to three main factors. Firstly, they had no family or close acquaintances around. In one conversation, an indigenous woman described how she was forbidden to communicate with her family or community for the entire ten years that she worked there as an *empregada*. Secondly, they did not speak the common language, Portuguese, since their native tongue was an indigenous language. Thirdly, they were not used to capitalist interactions and their money exchange basis.

In this respect, the dynamics of *patroa* and *empregada* has been grounded in the neocolonial exploitative relation within the *casa grande* family. By this, I mean that there is a continual attempt to cover up the true labor relations by the substitution of a family relation which, at first glance, might be seen as more humane. This is easily noted in the often-heard comment of *patroas* that the *empregada* is considered to be 'part of the family'. Such narrative as this has been the mask for neocolonial exploitation and the non-recognition of the labor rights of *empregadas* as a working-class category.

I argue that the colonial legacy of dispossession could be translated as "feminization of poverty", which is profoundly prominent in Brazil, one of the countries

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[609] Ibid., at 129. Galindo, No Se Puede Descolonizar Sin Despatriarcalizar. Teoría y Propuesta De La Despatriarcalización at 32-3. More on the struggles for wages and Wages for Housework Movement, see Davis, *Women, Race and Class*, Silvia Federici, 'Wages against Housework (1975)', *Revolution at Point Zero: Housework, Reproduction and Feminist Struggle* (New York and California: Common Notions and PM Press, 2012a), Federici and Austin, *The New York Wages for Housework Committee 1972-1977. History, Theory and Documents*. Gomes, Candido, and Tanscheit, 'Gender, Feminist Activism and Conservatism in Latin America: An Interview with Flavia Biroli, Flavia Freidenberg and Veronica Gago', at 73-4.

[610] More, see Anazir Maria De Oliveira ("Zica"), Odeter Maria Da Conceição, and Hildete Pereira De Melo, 'Domestic Workers in Rio De Janeiro: Their Struggle to Organize', in Elsa M. Chaney and Mary Garcia Castro (eds.), *Muchachas No More. Household Workers in Latin America and the Caribbean* (Philadelphia: Temple University Press, 1989) at 363-4.

in the world with the highest level of socioeconomic inequality.[611] The notion of "feminization of poverty" encompasses three main factors:

> The first is that women are the majority of the world's poor. The second is that their disproportionate share of poverty is rising relative to men's. The third is that the 'feminisation of poverty' is linked with the 'feminisation of household headship', as manifested in the widely cited epithet that women- headed households are the 'poorest of the poor'.[612]

In this respect, families headed by black women remain in the position of worst income in Brazil, followed by black men, white women and, finally, white men (1995-2009). In sum, black women represent the main group in poverty, in which only 26.3% are considered to be above the poverty line. [613]

Different from arguing any sort of hierarchization of oppression,[614] this work recognizes the way that feminization of poverty has particularly impacted black women, placing them predominantly in regions with little or no access to running water, a sewage system or regular garbage collection. Thus, the highest exposure to environmental impacts and disasters has been disproportionately felt by black feminized bodies, a situation referred to by the critical literature as "environmental racism." Indeed, this is not only a local problem but a global one as well:

> Women occupy the front lines of the present ecological crisis, making up 80 percent of climate refugees. In the global South, they constitute the vast majority of the rural workforce, even as they also bear responsibility for the lion's share of social-reproductive labor. Because of their key role in providing food, clothing, and shelter for their families, women play an outsized part in coping with drought, pollution, and the overexploitation of land. Likewise, poor women of color in the global North are disproportionately vulnerable. Subject to environmental racism, they constitute the backbone of communities subject to flooding and lead poisoning.[615]

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[611] In Brazil, the income received by the richest 0.1% corresponds to 14.4% of the national income, while the bottom 50% does not achieve even 12.3% of the total income (2015). Almost 30% of the national income is concentrated within the top 1% richest people, configuring one of the countries in the world with the highest level of income inequality. Cf. Facundo Alvaredo et al., 'World Inequality Report', (Paris: World Inequality Lab, 2018).

[612] Sylvia Chant, *Gender, Generation and Poverty. Exploring the 'Feminisation of Poverty' in Africa, Asia and Latin America* (Cheltenham, UK: Edward Elgar, 2007).

[613] Geledés and Criola, ' A Situação Dos Direitos Humanos Das Mulheres Negras No Brasil. Violências E Violações', at 11. Nascimento, 'A Mulher Negra E O Amor', at 128.

[614] Audre Lorde, 'There Is No Hierarchy of Oppression', (Oxford, New York: Oxford University Press, 2009a).

[615] Arruzza, Bhattacharya, and Fraser, *Feminism for the 99%. A Manifesto* at 47-8.

Politics of Aesthetics

As a result of the class split between *patroa* and *empregada*, the racial stigma of female bodies has been very often addressed by black feminists in Brazil. When accessing buildings, universities, companies, or offices, they are constantly being associated with the cleaner, the *empregada,* instead of being recognized as a student, professor, coordinator, or resident. For instance, the Brazilian black scholar, Beatriz do Nascimento, exposes the way that she has often been asked to call the *dona da casa* (the owner of the house) when opening her apartment's door.[616]

Several black women who came from the middle or upper class shared the feeling of needing to constantly prove they deserved to be where they are, and that they constantly had to demonstrate that they are as good or even better than the other white fellows or co-workers. In the words of a black feminist from Salvador, such a condition is both a *dehumanizer* and *exhaustive*.[617]

Additionally, the whitening project historically pressured black and indigenous women not to identify themselves as a collective, but as *mestiça*, *parda*, *mulata*, or another term that escapes black and indigenous ethnicities. In this regard, besides the skin color, hair texture has been considered as a key racial identifier in Brazil.

Up to the present time, Afro-Brazilian women's hair styles are referred to by stigmatizing names such as "*crespo, bombril, pixaim, sararā*" (kinky) and '*cabelo ruim*' (bad hair), while, on the other hand, '*cabelo liso*' (straight hair) is commonly described as '*cabelo bom*' (good hair). In this way, "*alisar o cabelo*" (hair-straightening) has been a widespread practice across the country, permeating the society as a whole. The social pressure for "*alisar o cabelo*" (hair-straightening) the "*cacheado*" and "*crespo*" (curly or kinky hair) is a clear manifestation of the whitening project in which you either become whiter or disappear, as Fanon underlined.[618]

"*Transição capilar*" is the name given to the process of stopping with the painful routine of hot iron and intensive chemical products required in straightening treatments.

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[616] Nascimento, 'Por Uma História Do Homem Negro', at 96. More, see Gonzalez, 'Racismo E Sexismo Na Cultura Brasileira', Gonzalez and (Eds.), *Lugar De Negro*, Carneiro, 'Gênero, Raça E Ascenção Social', Carneiro, 'Ennegrecer Al Feminismo La Situación De La Mujer Negra En América Latina Desde Una Perspectiva De Género'.

[617] Gonzalez, 'Racismo e Sexismo Na Cultura Brasileira', Carneiro, 'Gênero, Raça E Ascenção Social', Sueli Carneiro, 'A Força Das Mães Negras', *Le Monde Diplomatique Brasil,* November 8th 2007, Gonzalez and (Eds.), *Lugar De Negro*, Werneck, 'Nossos Passos Vêm De Longe - Movimentos De Mulheres Negras E Estrategias Políticas Contra o Sexismo e o Racismo'.

[618] Fanon, *Peau Noire, Masques Blancs.*

Such a decision is often considered to be a political statement, a process of "*se assumir como negra*" (assuming yourself as black) in a white supremacist society.[619]

Indeed, the movement to become politically engaged "through the hair" was pointed out by black women spoken with in this research, especially the younger ones, as a crucial step in introducing them to political engagement, thinkers, vloggers and activists. Facing the white ideal standards of beauty, Afro-Brazilian women's hair style has been renamed as *blackpower*, perceived as a sign of resistance, *ancestralidade* and political engagement.

Organizing Resistance

In the book *La Mujer y La Organización* (1980), the Bolivian unionist leader Domitila de Chungara delineates exactly how to politically organize the struggle by basing it on a recognition of domestic work as work. Addressing women as *compañeras*, Chungara defends that "the first thing we need to do in our communities, *compañeras*, is to organize", and further, in her words, "the government says 'no politics', but we, *compañeras*, are political since we were born" [my translation].[620]

As housewives were not perceived as part of the working class, they could not attend the union meetings. In reaction, they decided to create the committee of housewives, named *Comité de Amas de Casa de Siglo XX*. "The Housewives' Committee is organized like the union and it functions almost the same way".[621]

Accordingly, the exploitation of their husbands – mine workers – was perceived as a double, or even multiple exploitation of them, women (in the heterosexual family) and their children. In Chungara's words:

> *Porque, dándole tan poco salario, la mujer tiene que hacer mucho más cosas en el hogar. Y es una obra gratuita que le estamos haciendo al patrón, finalmente, ¿no? Y, explotando al minero, no solamente la*

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[619] In a similar direction, see Guerreiro Ramos, 'Patologia Social Do 'Branco' Brasileiro', *Introdução Crítica à Sociologia Brasileira* (Rio de Janeiro: Editorial Andes Limitada, 1957). Aparecida Sueli Carneiro, 'A Construção Do Outro Como Não-Ser Como Fundamento Do Ser', (Universidade de São Paulo (USP), 2005). Judith Butler, 'Violence, Non-Violence: Sartre, À Propos De Fanon', *Actuel Marx,* 1/55 (2014), 12-35.

[620] Original in Spanish: "lo primero que tienen que hacer en sus comunidades, compañeras, es organizarse"; "el gobierno siempre dicen: 'nada de política'. Pero nó compañeras, nosotras somos políticas desde que nacemos'. Cf. Chungara, *La Mujer Y La Organización* at 48, 50.

[621] Domitila De Chungara, *Let Me Speak!*, ed. Moema Viezzer, trans. Victoria Ortiz (New York and London: Monthly Review Press, 1978) at 41.

explotan a su compañera, sino que hay veces que hasta los hijos. En mi caso, por ejemplo, trabaja mi marido, trabajo yo, hago trabajar a mis hijos, así que somos varios trabajando para mantener el hogar.[622]

Because, with such a small wage, the woman has to do much more in the home. And really that's unpaid work that we are doing for the boss, isn't it? And, by exploiting the miner, they don't only exploit his wife too, but there are times they even exploit the children. Because there is so much to do in the house that even the little kids have to work.[623]

In this way, Chungara opens up the very concept of exploitation and working class to recognize the house and family as parts of it. Similarly, in the classic *The Power of Women and the Subversion of the Community* (1975), Mariarosa Dalla Costa and Selma James define community as "the other half of capitalist organization, the other area of hidden capitalist exploitation, the other hidden source of surplus labor."[624] This means that the community is perceived as a "social factory" in which the mainstream notion of a capitalist society is more broadly framed as containing the entire social body, and not just the workers.

Despite their substantial support of male struggles for better working conditions, the presence of women was not welcomed at the worker's Assembly. "They [male workers] didn't let them [women from the committee] speak a single word and finally threw bananas and orange peels at them […]. They [the women] came down almost crying. What were they shouting at them: 'Let these women go to attend to their *guaguas*, to make socks, to cook'."[625] It becomes evident again, how working class organizations, even those considered part of the radical left, have been dominated exclusively by male discourse and agenda.

Similar to the experiences shared by Domitila Chungara, domestic female workers have been gathering together and politically organizing in Brazil. In 1936, the country was the pioneer in the creation of the first Syndicate of Domestic Workers in the city of Santos, state of São Paulo, headed by Laudelina Campos de Melo, also part of the Black Front. Today, there are at least thirty-seven syndicates of domestic workers across the country. [626] In 2015, As a result of the continual mobilization of domestic workers, they

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[622] Domitila De Chungara and Moema Viezzer, *"Si Me Permiten Hablar…" Testimonio De Domitila, Una Mujer De Las Minas De Bolivia*, ed. Moema Viezzer (Edición digital edn.; México, D.F.: Siglo XXI Editores, 2005) at 24.

[623] Chungara, *Let Me Speak!* at 34.

[624] Costa and James, *The Power of Women and the Subversion of the Community* at 11.

[625] Chungara, *La Mujer Y La Organización* at 13-16.

[626] More, see Chaney and Castro, 'Introduction: A New Field for Research and Action', at 4. Biroli, *Gênero E Desigualdades: Os Limites Da Democracia No Brasil* at 186. Severi, *Lei Maria Da Penha E O Projeto Jurídico Feminista Brasileiro* at 115. Werneck, 'Nossos Passos Vêm De Longe - Movimentos De Mulheres Negras E Estratégias Políticas Contra o Sexismo e o Racismo', at 15. Araújo, 'Em Busca Da Coexistência: Um Giro Negro Sobre O Feminismo, O Pluralismo e a Democracia', at 359. Federici and Austin, *The New York Wages for Housework Committee 1972-1977. History, Theory and Documents* at 21. ibid., at 22.

succeeded in having labor rights extended to the category of domestic workers. I write it again, it was only in 2015, during the presidency of Dilma Rousseff, that domestic workers finally had their labor rights legally recognized in Brazil. Their achievement profoundly trembled the neocolonial structures of social relations in the country.[627]

"*Uma sobe e puxa a outra*": Ubuntu and Communitarian Economy

Blurring the dualistic division between equality and difference, peripheric women have been resisting the neoliberal economization and individualization of care in Brazil. They have been transforming the colonial spaces of dispossession into collective care communities, which can also be framed as a practice that decenters the family as the exclusive form of social organization.[628]

Recently, Brazilian feminists have invoked the saying "*uma sobe e puxa a outra*" (one goes up and pulls the other), here understood as a feminist articulation of survival in which one woman helps the other in a collective struggle. For that, the organization of peripheric women in communities demands a set of support, care, and new economic forms of cooperation that re-signifies the macro dimension of production as well as the neoliberal competition based on radical individualism and accumulative meritocracy.[629] Bearing on the interplay of micro and macro politics, this section firstly describes four initiatives encountered in the fieldwork, and then, departing from the specific cases, I conceptualize *ubuntu* and the communitarian/solidary economy.

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[627] Complementary Law n° 150, based on the Project to Emend the Constitution n° 72 from 2013.

[628] Shortly, feminism of equality is mainly defined by the claim for equal treatment between women and men, while the feminism of difference interrogates such claim based on an androcentric legal standard that not takes into consideration specific experiences of women. Additionally, the relational or post-modern feminisms sustains that the tension between the strategies for equality and difference is constitutive of feminism history itself, and therefore should not be superficially solved. Severi, *Lei Maria Da Penha E O Projeto Jurídico Feminista Brasileiro* at 39-41. ibid., at 41. More, see Galindo, *No Se Puede Descolonizar Sin Despatriarcalizar. Teoría Y Propuesta De La Despatriarcalización* at 39-40. Stephen, *Women and Social Movements in Latin America. Power from Below* at 279. Yuderkys Espinosa Miñoso, Diana Gómez Correal, and Karina Ochoa Muñoz, 'Introducción', in Yuderkys Espinosa Miñoso, Diana Gómez Correal, and Karina Ochoa Muñoz (eds.), *Tejiendo De Otro Modo: Feminismo, Epistemología Y Apuestas Descoloniales En Abya Yala* (Popayán, Colômbia: Editorial Universidad del Cauca, 2014) at 36, Gloria Anzaldúa, 'The Coming of El Mundo Surdo', in Analouise Keating (ed.), *The Gloria Anzaldúa Reader* (Durham and London: Duke University Press, 2009), Moraga, 'La Guera [1979]', Cherrie Moraga and Gloria Anzaldúa, *This Bridge Called My Back. Writings by Radical Women of Color* (Third edn.; Berkeley, CA: Third Woman Press, 2002). Draper, 'Strike as Process: Building the Poetics of a New Feminism', at 688, Lorde, 'Age, Race, Class, and Sex: Women Redefining Difference', Mohanty, *Feminism without Borders. Decolonizing Theory: Practicing Solidarity* at 163. Nepem, *Desafios E Conquistas Para Uma Economia Feminista E Solidária* (Belo Horizonte: Núcleo de Estudos e Pesquisas sobre a Mulher (NEPEM), 2018) at 38-40. ibid., at 26-8.

[629] Gago, *Neoliberalism from Below. Popular Pragmatics and Baroque Economies* at 89-90.

1. In Rio de Janeiro, I spoke with women working at the *Casa das Mulheres da Maré*, located in the largest favela complex in the country. There, peripheric women have the opportunity to learn catering and join the women's collective *Maré de Sabores*, framed by the group as a "territorial development" project.

> The project was born [*Casa das Mulheres da Maré*] from a demand from mothers of students of Operário Vicente Mariano Public School, at Baixa do Sapateiro. Since 2010, basic and advanced gastronomy qualification courses were offered, teaching recipes and techniques, rescuing Maré's food culture and promoting new eating habits based on healthy, organic and sustainable food. Within the training, there are also workshops on Gender, Citizenship and Entrepreneurship, in which students are encouraged to reflect on their role in society. Participants are encouraged to envision new professional strategies, including opening their own businesses to increase their income. Flavors of Maré has trained more than 500 women. Today, the project's headquarters is at Maré's Women House. The second arm of the project [*Maré de Sabores*] became a self-sustainable business. The buffet has already produced more than 2,000 events - including coffee breaks, brunches, lunches, cocktails, dinners and outsourced food for companies - serving more than 40,000 guests and generating direct income for more than 100 families of Maré. The menu is extensive, with great influence from the Northeast, since 60% of the residents are northeastern. [630]

Moreover, to participate in the project, they also need to take part in the *roda de conversas* (circle of conversations) exclusively formed by women, with the aim of creating a new space for sharing and politicizing experiences regarding the interplay of race, gender, sexuality, and class.

2. In the *Subúrbio Ferroviário* (Railway Suburb) of Salvador, the *Ginga Mulheres do Subúrbio* was created as an independent organization of peripheric women. In the words of the founder, there was initially a mixed group in which men were mainly engaged with issues of the city center, whilst women were concerned with local struggles of the community. In this way, they decided to create an autonomous and independent space for women to support each other, talk, share, and care. Despite the economic difficulties, they rented a collective house and started to offer workshops and professional courses for women in precarious situations. By combining manual crafts (*artesanato*) with the therapeutic healing of conversations, *Ginga* provides not only material conditions for women to leave violent homes and abusive jobs, but also a communitarian space of *acolhimento* (care).

3. In Manaus, facing the gender-based violence in the peripheries, a group of women organized together to form the *Mulheres Solidárias do Amazonas* (MUSA). Facing the complete lack of any social care system, they work to prevent gender-based violence

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[630] Information provided at their wegpage <http://redesdamare.org.br/en/info/16/flavors-of-mare> (Accessed on 14.1.2019).

as well as to support women in situations of violence to re-establish their lives within a communitarian economy. Also, they perform an active role in the *Articulação de Mulheres do Amazonas* (Articulation of Women from Amazons).

    4. Last but not least, I approached the *Associação das Mulheres do Alto Rio Negro* (AMARN) or *Numiâ Kura* (group of women in the *Tukano* language), the first association of indigenous women in Brazil, created in 1987. AMARN was formed by indigenous women facing exploitative labor conditions as domestic workers in Manaus. There, indigenous women have the opportunity to learn and work together with handicrafts. The association has been relevant not only economically, but also culturally, environmentally and politically, since it offers *acolhimento* (shelter) for any indigenous women in Manaus, in particular to the ones facing situations of domestic violence or labor exploitation. As described by a member, they also revive their ancestral language and culture, by speaking among themselves only in *Tukano* (the locally predominant indigenous language), preparing food, and taking a central role in political debates and local events.[631]

    This research conceptualizes the struggle to survive based on a communitarian economy with the principles of *ubuntu*. *Ubuntu* refers to the African knowledge from the Bantu people based on the principles of the interdependent and collective meanings of humanity. Literally, it is a Zulu word that means "being in movement." [632] Movement is perceived as the basis of everything in the world, from human beings to even a plant or a rock. In this respect, I reconnected the notions of body, articulation and movement. Here, articulation is framed as the very junction of bones, skin, muscle or other parts of the

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[631] Clara Toledo and Déborah Arruda, 'De Fibra É Feita a Luta: Casa De Mulheres Indígenas Em Manaus Politiza E Oferece Renda Alternativa Para Mulheres Do Alto Rio Negro', *Medium,* 3.07 2019, Ivânia Vieira, 'Mulheres Indígenas Do Alto Rio Negro Promovem Encontro Sobre Ativismo', *Acritica,* 13.05 2017.

[632] Sewing a dialogue between *ubuntu* and the Latin American notion of *buen vivir*, they both constitute counter-hegemonic movements from below concerned with challenging the neocolonial ideal of development responsible for producing massive ecological and human damage. Thus, both foster relational approaches to the community that refuse to perceive ecosystems as economic resources, to retake their own forms and alternatives of organization and community relationships that imply the autonomy of communities. More on *buen vivir,* see Gaidepac and Yembé, *Ubuntu. Hacia El Buen Vivir. Desde Lo Cotidiano-Extraordinario De La Vida Comunitaria* (El Proceso de Comunidades Negras (PCN), Equipo Yembé; Grupo de académicos e intelectuales en defensa del Pacífico colombiano (Gaidepac) edn.; Colombia: CLACSO, 2014) at 10, Alberto Acosta, 'El Buen Vivir, Más Allá Del Desarrollo', in Gian Carlo Delgado Ramos (ed.), *Buena Vida, Buen Vivir: Imaginarios Alternativos Para El Bien Común De La Humanidad* (Mexico: Centro de Investigaciones Interdisciplinarias en Ciencias y Humanidades, Universidade Nacional Autónoma de México (UNAM), 2014), Eduardo Gudynas, 'El Postdesarrollo Como Crítica y El Buen Vivir Como Alternativa', ibid., Gian Carlo Delgado Ramos, 'Metabolismo Social y El Bien Común De La Humanidad: Ecología, Economía y Política', ibid., Bruna Muriel Huertas Fuscaldo and Vivian Urquidi, 'O Buen Vivir e Os Saberes Ancestrais Frente Ao Neo-Extrativismo Do Século XXI', *Polis - Revista Latinoamericana,* 40 (2015).

body that are necessary for movement. This is perhaps easier to associate with the physical human body, but the same relation is also extensible for thinking the social body and social movements. Such a reading of movement as the very constitution of the world disrupts the Cartesian separations of body-mind and human-nature.

The *ubuntu* maxim "*eu sou porque nós somos*" (I am because we are) is based on the interdependence and interconnectedness that constitutes and makes us living beings.[633] In this regard, the described grassroots initiatives can be read as practices of *ubuntu* based on the interdependence of community.[634]

In this way, *ubuntu* germinates another way of social belonging that questions both the neocolonial ideology of radical individualism and the neoliberal economy that shapes ontologies, politics, legal discourses and forms of sociality. In *Law and Revolution in South Africa. Ubuntu, Dignity, and Struggle for Constitutional Transformation* (2014), Drucilla Cornell argues that *ubuntu* confers a new perspective on justice and care:

> There is not a contrast between justice and care. Therefore, they do not need to be pitted against one another, but rather held as part and parcel of a new way of thinking about our human being that demands there can be no care without justice, and without justice there will be no future wherein all human beings can claim their sameness and a new vision of how human beings can live together on this earth. [635]

Different from European philosophy, *ubuntu* does not conceptualize belonging as national homogeneity or according to a social contract justified by fear and utilitarian terms.[636] The notions of relationality, belonging and community are entangled in a social spiral composed of all existent beings (humans and non-humans); if one part is affected, the entire spiral is therefore affected. Thus, the relational perspective of community radically differs from the ultra-individualized and developmentalist ideal of massive dispossession and exploitation of the environmental territories and human bodies.[637]

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[633] More, see Drucilla Cornell, *Law and Revolution in South Africa. Ubuntu, Dignity, and Struggle for Constitutional Transformation* (New York: Fordham University Press, 2014). Mogobe B. Ramose, 'The Ethics of Ubuntu', in Peter H. Coetzee and Abraham P.J. Roux (eds.), *The African Philosophy Reader* (New York: Routledge, 2002), 324-30. Bas᾽Ilele Malomalo, 'Epistemologia Do Ntu: Ubuntu, Bisoidade, Macumba, Batuque E "X" Africana', in Elio Ferreira De Souza et al. (eds.), *História E Cultura Afrodescendente* (Teresina, Brazil Núcleo de Estudos e Pesquisas Afro (NEPA), Universidade Estadual do Piauí (UESPI), 2018) at 561-3. Marcelo José Derzi Moraes, 'A Filosofia Ubuntu E O Quilombo: A Ancestralidade Como Questão Filosófica', *Revista África e Africanidades,* Ano XII/n. 32 (nov. 2019), 11.

[634] Mcclure, 'On the Subject of Rights: Pluralism, Plurality and Political Identity', at 112.

[635] Drucilla Cornell and Karin Van Marle, 'Ubuntu Feminism: Tentative Reflections', *Verbum et Ecclesia,* 36/2 (2015), 8 at 6.

[636] Ibid., at 2-3. ibid., at 5.

[637] More, see Gaidepac and Yembé, *Ubuntu. Hacia El Buen Vivir. Desde Lo Cotidiano-Extraordinario De La Vida Comunitaria* at 26. ibid., at 8-9.

Historically, the Afro-Brazilian *ubuntu* was grounded in the diasporic resistance of black communities and *quilombos*. The notion of *quilombo* does not refer exclusively to the anti-colonial movements carried by enslaved black people, but also can be used as a theoretical frame for reflecting on the contemporary forms of decolonial struggle.

Therefore, besides being grounded in Afro-diasporic movements, *ubuntu* takes into consideration the entire community and society while resisting primitive accumulation and neocolonial forms of dispossession.[638] In this respect, the notion of neo-extractivism has been evoked to designate the ongoing exploitation, accumulation, poisoning, soil sterilization, and the annihilation of life (human and non-human).[639] In this way, it challenges the neocolonial myth of progress, responsible for producing a loss of food sovereignty, climate change, militarization and the privatization of territories and bodies.[640]

Drawing on the knowledge informed by *ubuntu*, this dissertation considers the above-mentioned initiatives as forms of collectively reinventing financial subsistence. In this way, the communitarian practices of peripheric women embodies an *ubuntu* way of resisting against the neoliberal logic of exploitation, competition and individualism.

Reinventing the Strike

This work conceptualizes "strike" as connotating more than merely the act of stopping work, or in Bartleby's famous line, the "I'd prefer not to".[641] This is because, an individualized resistance is a remedy that very few bodies can afford in the economic regime of production, dispossession and accumulation. Rather than tackling the malady (modes of domination), the individual strategy is often the expression of the neoliberal

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[638] Moraes, 'A Filosofia Ubuntu e o Quilombo: A Ancestralidade Como Questão Filosófica', Bas'llele Malomalo, 'Eu Só Existo Porque Nós Existimos', *Revista do Instituto Humanitas Unisinos,* 340 (2010). Antônio Bispo Dos Santos, *Colonização, Quilombos: Modos e Significados* (Brasília: Universidade de Brasília, Coordenação CNPq, 2015). Moraes, 'A Filosofia Ubuntu e o Quilombo: A Ancestralidade Como Questão Filosófica', Gaidepac and Yembé, *Ubuntu. Hacia El Buen Vivir. Desde Lo Cotidiano-Extraordinario De La Vida Comunitaria* at 14.

[639] Gaidepac and Yembé, *Ubuntu. Hacia El Buen Vivir. Desde Lo Cotidiano-Extraordinario De La Vida Comunitaria* at 8-9.

[640] Ibid.

[641] Herman Melville, *Bartleby, the Scrivener: A Story of Wall-Street* (From the Piazza Tales; New York: Putnam's Magazine, 1856).

rationale itself. As Fanon already pointed out, a social problem demands a social diagnosis.[642]

Traditionally, a strike refers to a collective strategy of halting work adopted by the working-class to resist exploitation and precarious labor conditions. Rosa Luxemburg conceptualizes the mass strike as a fluid and bottom-up political action that originates spontaneously from local causes and then expands to greater movements. Rather than an event, the strike is a process, a "method of motion" directed toward revolutionary transformations.[643]

Recently, women from the global peripheries are transnationalizing resistance while disputing the classic notions of working-class and strike. In 2017, women from more than 55 countries went on strike on the 8th of March, which was international women's day. The activist and scholar Cecilia Palmeiro described it as "the biggest and most radical process we have ever experienced collectively".[644]

Instead of laborizing the women's struggles, they redefine the very meaning of working-class while denouncing the non-valued and non-paid modes of exploitation based on gender, race, sexuality and class. By confronting colonial legacies, they criticize the national structures of violence and "the state's complicity with projects of the dispossession of bodies-territories and by accounting for the historical and lasting misencounters between a certain liberal feminism and popular struggles," as pointed out Veronica Gágo.[645]

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[642] Fanon, *Black Skin, White Masks*.

[643] Rosa Luxemburg, *The Mass Strike, the Political Party and the Trade Unions*, trans. Patrick Lavin (1925 edn.; Detroit: Marxist Educational Society of Detroit, 1906).

[644] Cf. Cecilia Palmeiro, 'A Women's Strike Organizer on Feminism for the 99 Percent', in Linda Yang (ed.), *Vice* (2017). Despite the women's strike in Iceland back in 1975, the resignification of strike has been mostly situated from 2016, especially regarding the mobilizations situated in Poland (Black Monday) and Argentina (*Ni una menos*). Regarding Brazil, feminist mobilizations spread over the country especially from 2015, with the social media campaigns *#meuprimeiroassedio* (my first harassment) and *#meuamigosecreto* (my secret male friend), both movements were based on sharing personal experiences and therefore bringing into the public domain individual narratives of violence against women. The virtual articulation was followed, in the same year, by massive protests occupying public streets, such as the protests known as *Fora Cunha* (Cunha Out) – against the politician Eduardo Cunha, head of the Legislators' Chamber and author of the Law Proposal 5069 which would prohibit the right to an abortion in the case of rape. Still in 2015, the first *Marcha das Mulheres Negras contra o Racismo e a Violência, e pelo Bem Viver* (Black Women March against Racism and Violence and for the Good Life), took place in Brasilia and gathered together around 500.000 women. Such uprising has been labelled by activists and scholars as *Primavera das Mulheres* (Women's Spring), in reference to the Arab Spring. More, see Franco, 'Mulher, Negra, Favelada E Parlamentar: Resistir É Pleonasmo', at 124. Geledés and Criola, ' A Situação Dos Direitos Humanos Das Mulheres Negras No Brasil. Violências e Violações', at 39. Gomes, Candido, and Tanscheit, 'Apresentação Dossiê Feminismos Na AméRica Latina: Movimentos Sociais, Estado e Partidos Políticos', at 6. Arruzza, Bhattacharya, and Fraser, *Feminism for the 99%. A Manifesto* at 6. More, see ibid.

[645] Verónica Gago, '#Westrike: Notes toward a Political Theory of the Feminist Strike', *The South Atlantic Quarterly. Duke University PressAgainst the Day,* July/Against the Day (2018a) at 667.

The new signification of the strike reactivates the intersectionality of anti-racist, anti-imperialist, anti-heterosexist and anti-neoliberal struggles within transversal, transnational and global articulations. It challenges the liberal definition of feminism as belonging to "women's issues" by framing it as a movement necessarily concerned with society as a whole.[646]

This analysis poses some critical points to reflect on the ongoing process of reinventing the strike named by the literature as the "fourth feminist wave", "new international feminist movement" and "feminism of the 99%".[647] The purpose in bringing questions is neither to disqualify the movement nor to offer simple solutions to complex issues. Rather, it is to seriously analyze the strategy of transnational and peripheric articulations todays. In this regard, I pose three main inquiries: Who can actually strike against the social reproduction work of care and domestic tasks? How does the articulation between national and international women's movements operate in terms of process rather than event held on March 8th? What is the common claim shared by the transnational movements and how could the strike contribute to its achievement?

Firstly, the previous analysis of social reproduction and the feminization of poverty already pointed to the importance of considering the precarious conditions in which women have been materially inserted. There are huge obstacles for the possibility of peripheric women to strike involving formal and informal, paid and unpaid, forms of labor, such as: the precarious labor conditions; the necessity of daily income to survive; problems with immigration status; the care of children, seniors, people with disabilities and people with serious health issues; among others.[648] They should certainly not be overlooked in the current redefinition of strike as a transformative tool.

Yet, the right to collectively strike is a historically powerful tool, especially for those who are not able to strike individually. In this way, the collective domain of strike would constitute the very ground for challenging the individualized precarity of living.

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[646] Arruzza, Bhattacharya, and Fraser, *Feminism for the 99%. A Manifesto* at 14.

[647] Ibid. Gago, '#Westrike: Notes toward a Political Theory of the Feminist Strike', at 663. Arruzza, 'From Social Reproduction Feminism to the Women's Strike', at 196, Draper, 'Strike as Process: Building the Poetics of a New Feminism', at 686. Palmeiro, 'A Women's Strike Organizer on Feminism for the 99 Percent'.

[648] Gago, '#Westrike: Notes toward a Political Theory of the Feminist Strike', at 664.

This does not solve the mentioned obstacles but recognizes the potentiality to reinvent forms of collective resistance.[649]

Secondly, perceiving the strike as a process and a method of motion – instead of as an event – demands a continual organization, exchange and articulation to collectively build new forms of transnational radicalities. The cyber age of digital technologies offers still unexplored possibilities for a global articulation of peripheric movements.

Last but not least, what would constitute the common ground responsible to bind together women from various positionalities in collective mobilizations? In the book *Women and Social Movements in Latin America* (1997), Lynn Stephen pointed that:

> the *unity* of women's organizing experience, the combination of daily-life survival issues specific to women's experience with a questioning of various forms of gender subordination including rape, domestic violence, and a lack of reproductive knowledge and control. This convergence of issues found in many of the organizations studied here is perhaps the best evidence of how women can incorporate a wide range of issues and experiences into one struggle that might not appear logically compatible to outsiders.[650]

Similarly, my conversations from the field were permeated by the survival narrative as the central struggle of women activists. In this way, the common ground for the reinvention of the strike is the struggle against the neocolonial and neoliberal feminicide that entails its legal, social, political, economic, ontological, and epistemological dimensions. The strike brings to the forefront not only the social reproduction of life and work, but the violence against female bodies historically impacted by it. The current forms of exploitation against women still conceives of their bodies as territories to invade, conquer, control, exploit and possess.[651]

As a result of the recent massive demonstrations, Brazil staged in 2018 the largest women-led march in its history. During the national elections, women chanted the claim *Ele não*! (Not him!) against the candidate Jair Bolsonaro, placing misogyny at the center of

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[649] More, see Arruzza, 'From Social Reproduction Feminism to the Women's Strike', at 194. Gomes, Candido, and Tanscheit, 'Gender, Feminist Activism and Conservatism in Latin America: An Interview with Flavia Biroli, Flavia Freidenberg and Veronica Gago', at 83. Audre Lorde, 'Uses of Anger: Women Responding to Racism', *The Master's Tools Will Never Dismantle the Master's House* (2017 edn., Penguin Modern: 23; UK: Penguin, 1981), Lorde, 'The Transformation of Silence into Language and Action', Gago, '#Westrike: Notes toward a Political Theory of the Feminist Strike', at 663.

[650] Stephen, *Women and Social Movements in Latin America. Power from Below* at 275.

[651] Gago, '#Westrike: Notes toward a Political Theory of the Feminist Strike', at 662. Gomes, Candido, and Tanscheit, 'Gender, Feminist Activism and Conservatism in Latin America: An Interview with Flavia Biroli, Flavia Freidenberg and Veronica Gago', at 76. Verónica Gago, 'Critical Times / the Earth Trembles', *Critical Times: Transnational Feminist Strikes and Solidarities,* 1/1 (2018b), 158-77 at 158.

the election's debates. Protests spread to more than 114 cities across the country, and also, further, to New York, Paris, London, Barcelona, and Berlin, among others.[652]

In 2019, the country enacted general strikes in approximately 189 cities, with the call to stike flyer being illustrated with a black and indigenous woman holding hands. InAugust of the same year, Brazil had its first march of indigenous women called *Território: nosso corpo, nosso espírito* (Territory: our body, our spirit). There, more than two thousand indigenous women marched in Brasília. Days after, the 6ª *Marcha das Margaridas* gathered 100.000 women struggling together in Brasília against feminicide, the dispossession of indigenous lands and the government's rampant authorization of agrochemicals and food poisoning. It has been considered the largest rural worker mobilization in Latin America, as well as the largest mobilization of women in the entire region.[653]

(iii) Feminicide as Political Violence

The already alarming rate of feminicide in Brazil seems to have escalated since the period of the national election of 2018. According to the Secretary of Public Security for São Paulo, the largest city in Latin America, in the first semester of 2019, the murder of women skyrocketed by 220% while the cases of feminicide increased by 44% in comparison with the same period in 2018. Indeed, the growth of violence against women was not a result of the general increase of urban violence. Rather, intentional murder against men decreased in the same period in São Paulo.[654]

Regarding the discrepancy between the increase of intentional murder (220%) and feminicide (44%), it is relevant to explain that, since the adoption of the Feminicide Law, the police have often kept their old practice of registering a murder of a woman under the general category of homicide, despite the evidence of gender-based violence. Only later does the Public Prosecutor change the classification from homicide to feminicide.

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[652] Gomes, Candido, and Tanscheit, 'Gender, Feminist Activism and Conservatism in Latin America: An Interview with Flavia Biroli, Flavia Freidenberg and Veronica Gago', at 80.

[653] The name of the march is a tribute to Margarida Alves, a rural worker and former president of the Rural Workers Union of Lagoa Grande/Paraíba, who fought for labor rights and was brutally executed by farmers in 1983. Cf. Pedro Peduzzi, 'Brasília Recebe 6ª Marcha Das Margaridas', *Agência Brasil,* 14.08.2019, Juliana Gonçalves, ''O Mercado Produz Doença, e Elas Produzem Vida': Conheça as Mulheres Da Marcha Das Margaridas', *The Intercept Brasil,* 14.08.2019.

[654] Cf. Cíntia Acayaba and Léo Arcoverde, 'Casos de Feminicídio Aumentam 44% No 1º Semestre De 2019 Em Sp', *O Globo,* 07.08.2019. Luís Adorno, 'Governo Doria Muda Metodologia e Homicídio Contra Mulher Salta De 71 a 227', *UOL,* 03.09.2019b. Luís Adorno, 'SP Divulgou Dados Menores Sobre Violência Contra a Mulher Por 8 Anos', *UOL,* 05.09.2019a, sec. Segurança Pública.

As a consequence, the increase of feminicide can be much higher than the one initially registered, considering the dramatic growth of the intentional killing of females.[655]

Moreover, the boom in violence against women was not exclusive to São Paulo. Since the reports on feminicide are only annually updated, the FBSP (Brazilian Forum of Public Security), the CVUSP (Center for Violence Studies of the University of São Paulo), and the newspaper *O Globo* established a *Monitor da Violência* (Monitoring of Violence) in order to address the problem. They present previously unreleased data provided by the Brazilian Ministry of Women, Family and Human Rights, that indicates an almost 60% increase in the number of phone calls to the Center for Assistance to Women in Situations of Violence (Calling Service 180) received from January until 26th February (from 11.263 in 2018 to 17.836 in 2019).[656] In the same direction, national newspapers and local media had noted that the country is facing a "pandemic" of feminicide in 2019, considering the period since the end of 2018 which overlaps the national elections. The same sentiment is visible in the results of public opinion polls: 90% of the population believe that violence against women has increased recently.[657]

In order to gather additional information on the issue, this work conducted a cartography based on the national and local news by tracing the mentions of "murder of woman", "feminicide", "femicide", or LGBT+ murders (gay, lesbian, bisexual, transgender and *travesti* people), from 1st January to 21st February 2019 (See Appendix B).

As a result of the mapping, it is possible to state that at least 302 women suffered feminicide, which includes both committed (63,9%) and attempted (35,4%) forms of the crime, in the first 52 days of 2019 in Brazil. However, this investigation recognizes the risk in comparing the numbers gathered by the cartography with the previous rates

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[655] Cf. Acayaba and Arcoverde, 'Casos De Feminicídio Aumentam 44% No 1° Semestre de 2019 Em SP'. Adorno, 'Governo Doria Muda Metodologia e Homicídio Contra Mulher Salta De 71 a 227'. Adorno, 'SP Divulgou Dados Menores Sobre Violência Contra a Mulher Por 8 Anos'.

[656] Brasil, 'Relatório Geral 2018. Ligue 180 - Central De Atendimento À Mulher', <https://www.mdh.gov.br/informacao-aocidadao/ouvidoria/Balanco_180.pdf>, (Accessed on 04.10.2019). Clara Velasco, Gabriela Caesar, and Thiago Reis, 'Cai o N° De Mulheres Vítimas De Homicídio, Mas Registros De Feminicídio Crescem No Brasil', *G1, O Globo,* (08.03.2019).

[657] More, see Nathalia Oliva, 'Brasil Tem Onda De Feminicídios No Início Do Ano, Com Mais De 100 Casos Em 1 Mês', *IG,* 04.02.2019, Acayaba and Arcoverde, 'Casos De Feminicídio Aumentam 44% No 1° Semestre De 2019 Em SP', UOL, 'Comissão Debate Aumento De Casos De Feminicídio E Dados Surpreendem Senador', *UOL,* 17.06.2019, Pedro Rafael Vilela, 'Feminicídio: Uma Inaceitável Epidemia Brasileira', *Brasil de Fato,* 27.2.2019, João Paulo Cunha, 'Governo Esconde Dados Sobre Feminicídio', ibid.19.07.2019, Ana Paula Blower, Paula Ferreira, and Renato Grandelle, 'Nos Primeiros 11 Dias Do Ano, 33 Mulheres Foram Vítimas De Feminicídio E 17 Sobreviveram', *O Globo,* 12.01.2019, Senado, 'Preocupação Com Aumento De Feminicídios No Brasil Motiva Debate Na CDH', *Senado,* 17.06.2019, Sarah Peres, 'Registro De Tentativas De Feminicídio Cresce 77% No Primeiro Semestre', *Correio Braziliense,* 12.07.2019. Datafolha, 'Mulheres, Violência E Feminismo', (São Paulo: Folha de São Paulo, 2019).

provided by reports for two main reasons. Firstly, the official reports on feminicide do not provide information on a monthly basis, and don't differentiate between attempted murder and murder. Secondly, the previous reports were based on official data instead of being exclusively based on cases reported by the media, therefore they required different methodologies. Acknowledging such differences, the numeric comparison would run the risk of presenting imprecise or inconsistent conclusions and, therefore, will not be presented by this dissertation.

To deal with this complexity, the research leans on a non-comparative approach to the updated information collected by mapping the structures of violence against feminized bodies. For that, this analysis first outlines some general patterns to the crimes and then examines additional new features presented by the cartography.

Similar to the global pattern, the vast majority of feminicides were committed by male partners (34,8%) or male ex-partners (24,8%). Both numbers could be in fact higher since the media did not mention any suspect in 21,2% of the cases. Regarding the location, 46% of the crimes were committed inside or in front of a house, followed by 3% occurring at the woman's workplace or close to it; 3% at a bar; and 0.7% inside a car. Again, the media provided no information in this respect in 30.1% of cases.

The *macho* feelings of possession, jealousy, non-acceptance of break-up, suspicions of cheating, or sexual refusal were explicitly mentioned in at least 21,1% of cases. In almost 10% of the reports, there was a record of previous attempts by the woman victim to receive legal protective measures or to report the violence to the official authorities.

Drawing on these elements, it would be worthwhile contextualizing the current collapse of the traditional idea of masculinized ownership and the male-centered family. Today, women are the head of at least one third of the families in Brazil.[658] As Connell's research points out, "the constitution of masculinity through bodily performance means that gender is vulnerable when the performance cannot be sustained".[659] Facing the difficulties in maintaining the monopoly of the performance of the breadwinner or the role of *chefe de família*, in a patriarchal society, the only emotion valued in men is anger.

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[658] Different from the vast majority of cases of single mothers presented in 1995, recent data demonstrate that women heading their families have been less and less limited to single-mother homes. Ipea, 'Dossiê Mulheres Negras. Retrato Das Condições De Vida Das Mulheres Negras No Brasil', at 24. ibid., at 27. Galindo, *No Se Puede Descolonizar Sin Despatriarcalizar. Teoría y Propuesta De La Despatriarcalización* at 149. Arruzza, Bhattacharya, and Fraser, *Feminism for the 99%. A Manifesto* at 26-7, Galindo, *No Se Puede Descolonizar Sin Despatriarcalizar. Teoría Y Propuesta De La Despatriarcalización* at 147. ibid., at 147-8. Federici, 'The Reproduction of Labor Power in the Global Economy and the Unfinished Feminist Revolution (2008)', at 110. Saffioti, *O Poder Do Macho* at 24-27. Saffioti, *A Mulher Na Sociedade De Classes: Mito E Realidade* at 6. Stephen, *Women and Social Movements in Latin America. Power from Below* at 272.

[659] Connell, *Masculinities* at 54.

"Real men get mad. And their madness, no matter how violent or violating, is deemed natural—a positive expression of patriarchal masculinity".[660] In *The Will to Change. Men, Masculinity, and Love* (2004), bell hooks states:

> Male violence in general has intensified not because feminist gains offer women greater freedom but rather because men who endorse patriarchy discovered along the way that the patriarchal promise of power and dominion is not easy to fulfill, and in those rare cases where it is fulfilled, men find themselves emotionally bereft. The patriarchal manhood that was supposed to satisfy does not. And by the time this awareness emerges, most patriarchal men are isolated and alienated; they cannot go back and reclaim a past happiness or joy, nor can they go forward. To go forward they would need to repudiate the patriarchal thinking that their identity has been based on. Rage is the easy way back to a realm of feeling. It can serve as the perfect cover, masking feelings of fear and failure.[661]

In this respect, the Deputy Executive Director of UNODC Sandeep Chawla argues that the increase in economic independence among women is a key element for the *macho* lethal reactions and femicide increase.[662]

That is to say, feminicide is perceived as the result of "the political economy of violence in that universe that is usually referred to as 'domestic' in order to isolate systematic practices of abuse as individual problems and criminalize those who resist them", in Draper's words.[663] Ergo, it is possible to situate the growth of feminicide as a reaction to the collapse of the colonial masculinity model of the nation state. To further reflect on that, this examination addresses three additional factors brought up by the mapping process.

Firstly, in almost 10% of the feminicides (both attempted and committed), the male perpetrator attempted or succeeded in committing suicide thereafter. This means that, in 52 days, around 30 men committed feminicide and subsequently tried to kill themselves. Recalling the approach of analyzing violence as a communicative act, it is possible to locate the complex collapse of colonial masculinity in aggressivity, possession, and dominance which entails the interplay of emotional, economic, political, social and legal realms. As bell hooks notes:

> Yet when men gather together at work, they rarely have meaningful conversations. They jeer, they grandstand, they joke, but they do not share feelings. They relate in a scripted, limited way, careful to remain within the emotional boundaries set by patriarchal thinking

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[660] Hooks, *The Will to Change. Men, Masculinity, and Love* at 35.

[661] Ibid., at 113-4.

[662] Laurent, Platzer, and Idomir, 'Femicide: A Global Issue That Demands Action', at 11, 20. More see, Flavio Urra, 'Masculinidades: A Construção Social Da Masculinidade E O Exercício Da Violência', in Eva Alterman Blay (ed.), *Feminismos E Masculinidades: Novos Caminhos Para Enfrentar a Violência Contra a Mulher* (São Paulo: Cultura Acadêmica, 2014), Deivison Faustino Nkosi, 'O Pênis Sem O Falo: Algumas Reflexões Sobre Homens Negros, Masculinidades E Racismo', ibid. at 95.

[663] Draper, 'Strike as Process: Building the Poetics of a New Feminism', at 685.

about masculinity. The rules of patriarchal manhood remind them that it is their duty as men to refuse relatedness. [664]

Obviously some patriarchal men are reliable and even benevolent caretakers and providers, but still they are imprisoned by a system that undermines their mental health. Patriarchy promotes insanity. It is at the root of the psychological ills troubling men in our nation. Nevertheless there is no mass concern for the plight of men.[665]

Indeed, according to the Brazilian Health Ministry, four times as many men die of suicide than women do. According to the report *Suicide in the World* from WHO (2019), a similar rate of suicide exists in many other countries in the world.[666] Thus, the collapse of neocolonial structures of power has most extremely affected female bodies in terms of their domestic extermination, but also presents serious consequences for male subjectivity regarding mental health and violent ways of social coexistence.

Secondly, the police categorization of feminicide predominantly reduced gender-based violence to a cisgender and heterosexual reading of gender. For instance, none of the three brutal cases against transgender or *travesti* women were covered as feminicide; not even the cruelest symbolic murder of a transwoman who literally had her heart ripped out and an image of a catholic saint put in its place. The case presents concrete signs of misogynist-transphobia that necessarily is part of the fabric of gender identity (male/female; cisgender/transgender), and therefore suits the legal definition of feminicide as a gender-based crime against woman.[667] Moreover, in the three cases where the crimes were committed against lesbian women, they were also not classified as gender-based violence (feminicide), which disregards the relation between homophobic/lesbophobic violence that often aligns gay men to the feminine and lesbian women to the masculine.[668]

In this respect, this work follows Gágo in sustaining that "pluralizing [the notion of feminicide] is not just a quantification, a list of violence. It is something much denser:

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[664] Hooks, *The Will to Change. Men, Masculinity, and Love* at 144.

[665] Ibid., at 63.

[666] Brasil, 'Agenda De Ações Estratégicas Para Vigilância E Prevenção Do Suicídio E Promoção Da Saúde No Brasil', (Brasilia: Ministéria da Saúde. Secretaria de Atenção à Saúde. Departamento de Ações Programáticas Estratégicas, 2017). According to WHO, in "richer countries", men die three times more of suicide than women, similar rate from the one presented in Brazil. Cf. WHO, 'Suicide in the World Global Health Estimates', (World Health Organization, 2019).

[667] In one publication made by Huffpost, the jurist Clara Masiero stood out in defending that the crime could be qualified as feminicide if demonstrated that it would not happen if the victim was not a woman. Cf. Andréa Martinelli and Leda Antunes, 'Quelly Da Silva: O Nome Da Travesti Que Foi Assassinada E Teve O Coração Arrancado', *Huffpost,* 22.01.2019.

[668] Connell, *Masculinities* at 40.

it is a way of mapping its simultaneity and its interrelationship."[669] Passing through the *front door* of violence, feminicide should neither be reduced to domestic violence nor to violence against cisgender women committed by a male partner.

Thirdly, in almost 20% of the cases reported by the media, there was some type of intervention from a third person who attempted to assist the battered woman. After hearing screams or related sounds of violence, family members or next-door neighbors got involved to help the woman. For that, many jumped the walls of residences, broke locked doors, broke locked gates, called the ambulance, the police, the family. In several cases, the interference was responsible for preventing the feminicide. In other cases, however, the third person also put their lives at risk and were hit, stabbed or even shot together with the woman.

Additional to the communitarian support, the cartography indicates that in many cases of feminicide (15,7%), the mothers or close relatives were the only ones to hear the perpetrators's confession. Instead of remaining in silence, they have exposed the crime in order to still rescue the woman or to publicly report the feminicide. This reinforces the perception of violence against women as a political and structural problem that should not be reduced to the private relations within the family. Thus, it is possible to perceive a shift in the popular saying *em briga de marido e mulher ninguém mete a colher* based on privatization of violence behind the front door of domestic space. Violence against feminized bodies has been moving to the center of public and political debates. Feminicide alludes to a broader dimension of political violence that has historically structured the colonial and neoliberal nation state within the domains of law, politics and the economy.[670] Feminicide is a political violence.

(iv) Decolonizing the Masters' Tool: Reinventing Legal Practice

Paraphrasing Audre Lorde, this section examines how the historical masters' tool of the legal system can or cannot dismantle the master's house.[671] Recalling the issue of

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[669] Gomes, Candido, and Tanscheit, 'Gender, Feminist Activism and Conservatism in Latin America: An Interview with Flavia Biroli, Flavia Freidenberg and Veronica Gago', at 76.

[670] Gago, '#Westrike: Notes toward a Political Theory of the Feminist Strike', at 662. Gomes, Candido, and Tanscheit, 'Gender, Feminist Activism and Conservatism in Latin America: An Interview with Flavia Biroli, Flavia Freidenberg and Veronica Gago', at 74, Biroli, *Gênero E Desigualdades: Os Limites Da Democracia No Brasil.*

[671] Audre Lorde, 'The Master's Tools Will Never Dismantle the Master's House', *The Master's Tools Will Never Dismantle the Master's House* (2017 edn., Penguin Modern: 23; UK: Penguin, 1984b).

politics of rights, it is not a coincidence that several feminists have intensively criticized the strategy to use legal discourses for structural social transformations. Differently, they evoked the need to *de-centre* the law and significantly reduce its use.[672] In this sense, it is crucial to critically reflect on ways for radically transforming the so-called masters' tool. If the law is the grounds on which the neocolonial *casa grande* is constructed, it is also the *territory* that needs to be transformed in order to dismantle the master's house.

As previously discussed, the institutional organs of the nation state, such as the police, the army, the Public Prosecutor's Office, and the judicial system in general, are legitimized around the ideals of justice and security to maintain and protect the established order. However, such an order has been historically embedded in colonial, racist, sexist and LGBTIQphobic marginalization and violence. That is to say, the colonial mechanism of othering did not only produce individual ontologies, but shaped legal discourse, politics and society based on a binary division. From personal body to social body. Family to nation.[673]

Contrasting with the predominant debates of justice centered in disembodied theories, as presented by Immanuel Kant, John Rawls and Jürgen Habermas, this research moves towards an embodied and localized reflection. Departing from the existent practices carried out by peripheric women, this section identifies and reflects on potential seeds for transforming legal discourse and practice from below.

Firstly, the judicial system can be described, in general terms, as the sphere where subjects of rights (natural or legal persons) can access the State's authority embodied by a competent, neutral, objective and impartial judge who decides their dispute by applying the law to the material case. It goes without saying that the judicial system includes legal principles, methods of interpretation, textual gaps, and many other elements. For the sake of this argument, the provided definition fleshes the dialectical reading of social conflict that, in the majority of cases, results in the binary synthesis of 'winner' and 'loser', 'victim' and 'perpetrator.[674] In this regard, and based on the historical analysis carried out in this research, the judicial system has been a coercive, autocratic, expensive, non-participatory, non-neutral and elitist mechanism, in which the legal parties are often immersed in stressful, tense and contentious situations. That may seem obvious, but, nevertheless, it

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[672] Regarding the call to de-centre law, see Smart, *Feminism and the Power of Law* at 5.; to significantly reduce law, see Mouffe, *The Democratic Paradox* at 126.

[673] Gláucia Foley, 'Por Uma Justiça Feminista', in Roberto Parahyba De Arruda Pinto, Alessandra Camarano, and Ellen Mara Ferraz Hazan (eds.), *Feminismo, Pluralismo E Democracia* (São Paulo: LTr, 2018) at 168. More, see Souza, Jesse. A elite do atraso. Da escravidão a Lava-jato. Rio de Janeiro: Leya, 2017.

[674] Foley, 'Por Uma Justiça Feminista', at 169-70.

is still frequently overlooked by legal scholars. Law is not a technical discourse that is disconnected from social, political, cultural and economic contexts. Rather, legal discourse and practices have been rooted in structural and historical relations of power within colonial and neocolonial society.[675]

Furthermore, legal discourse addresses violence, particularly in cases where it is enacted against women, in terms of it being an individual problem. Such an approach removes the problem from the political arena. By adopting an individualized frame, "the state focuses on control or management of the situation rather than elimination of the problem of male violence against women, thus having the effect of 'managing violence' rather than 'challenging violence'."[676] Thus, the legal mainstream solution based on criminal punishment is a simple and deficient avenue that reinforces colonial, precarious and racialized mass incarceration, which is part of the structural problem rather than a remedy for it.[677]

Secondly, it is crucial to recognize that, after reporting gender-based violence to the police, many women face an extremely vulnerable situation of menace and revenge from their partner, ex-partner or relative, as well as, in most of the cases of sharing a house, they are no longer able to return home. In such a complex setting, and understanding violence as a relational process that legally constitutes both victims and aggressors, how can the legal mechanisms actually contribute to transforming the structures of violence, instead of just reinforcing them?

The dissertation analyzes the importance of bringing men to the gender debate, and not as a category apart from it. In this regard, the *grupo de homens autores de violência contra a mulher* (group of men who committed violence against women, or GM) was created in 1999 in Brazil, and recently has expanded to the broader project of *grupo reflexivos de homens* (literally translatable as "reflexive groups of men"). The GM was first

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[675] Ibid., at 170.

[676] Mcmillan, *Feminists Organising against Gendered Violence* at 74-5.

[677] More about prison and carceral system, see Michel Foucault, *Surveiller Et Punir. La Naissance De La Prison* (Paris: Gallimard, 1975), Marcos Luiz Bretas, 'Slaves, Free Poor and Policemen: Brazil', in Clive Emsley and Louis Knafla (eds.), *Crime History and Histories of Crime: Studies in the Historiography of Crime and Criminal Justice in Modern History* (London: Greenwood Press, 1996), Judith Butler, 'Endangered/Endangering: Schematic Racism and White Paranoia', in Robert Gooding-Williams (ed.), *Reading Rodney King, Reading Urban Uprising* (New York: Routledge, 1993), Nascimento, *O Negro Revoltado*, Wlamyra De Albuquerque, *O Jogo Da Dissimulação – Abolição e Cidadania Negra No Brasil* (São Paulo: Companhia das Letras, 2009), Sidney Chalhoub, *A Força Da Escravidão – Ilegalidade E Costume No Brasil Oitocentista* (São Paulo: Companhia das Letras, 2012b), Silva and Chakravartty, 'Accumulation, Dispossession, and Debt: The Racial Logic of Global Capitalism—an Introduction', Denise Ferreira Da Silva, 'Ninguém: Direito, Racialidade e Violência', *Belo Horizonte: Revista Meritum,* 9/1 (2014), 67-117, Streva, *Corpo, Raça, Poder: Extermínio Negro No Brasil.* Bell Hooks, *We Are Cool. Black Men and Masculinity* (New York, London: Routledge, 2004b) at xi. Hooks, *The Will to Change. Men, Masculinity, and Love* at 166.

organized in Rio de Janeiro by the pioneering Instituto Noos, and afterwards, similar initiatives spread over the country such as *Promundo*, *Centro de Educação para a Saúde* (CES), *Pró-mulher*, etc.[678]

Different from an individualized remedy, the GM is a collective intervention focused on transforming the ongoing model of masculinity based on possession, control, aggressivity and competition. It proposes to redefine the notion of masculinity, and disrupt the singular form of neocolonial masculinity in order to rethink it through multiple ways of living and expressing masculinities (in plural) that are not toxic, violent, or destructive. Currently, the GM is not applied as a substitution for the prison time , but as something supplementary to it. Yet, different from a traditional, top-down, hierarchical and dehumanized legal approach, it configures a potent project of collective assemblages based on the community. Horizontal and participatory, the group brings together collectivity, affection, and dialogue with the purpose of transforming neocolonial models of masculinity in the society.

The GM is composed exclusively of men and conducted by a *facilitador* who mediates and coordinates the discussions. In a patriarchal culture that socializes men to deny feelings, the group creates a space for men to learn how to share and debate their own personal experiences regarding the meanings of manhood, the features of masculinity, the sexual division of labor, the Maria da Penha Law, experiences from the childhood, and so forth. It provides the opportunity to change the language of violence for a new language of communitarian dialogue. For that, the encounters demand continuity, regularity and active participation of the members in a collective. [679]

> When I first began looking at gender issues, I believed that violence was a by-product of boyhood socialization. But after listening more closely to men and their families, I have come to believe that violence is boyhood socialization. The way we "turn boys into men" is through injury […]. We pull them away from their own expressiveness, from their feelings, from sensitivity to others. The very phrase "Be a man" means suck it up and keep going. Disconnection is not fallout from traditional masculinity. Disconnection is masculinity. [680]

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[678] More, see Blay, 'Violência Contra a Mulher: Um Grave Problema Não Solucionado', Deivison Faustino Nkosi, 'O Pênis Sem O Falo: Algumas Reflexões Sobre Homens Negros, Masculinidades E Racismo', ibid. at 77, Flavio Urra, 'Masculinidades: A Construção Social Da Masculinidade E O Exercício Da Violência', ibid., Leandro Feitosa Andrade, 'Grupos De Homens E Homens Em Grupos: Novas Dimensões E Condições Para as Masculinidades', ibid. at 173, 78.

[679] More, see Flavio Urra, 'Masculinidades: A Construção Social Da Masculinidade E O Exercício Da Violência', ibid. at 132-3, Leandro Feitosa Andrade, 'Grupos De Homens E Homens Em Grupos: Novas Dimensões E Condições Para as Masculinidades', ibid. at 181-5, 93. Hooks, *The Will to Change. Men, Masculinity, and Love* at 48. ibid., at 34. ibid., at 67.

[680] Hooks, *The Will to Change. Men, Masculinity, and Love* at 99.

The work of male relational recovery, of reconnection, of forming intimacy and making community can never be done alone. In a world where boys and men are daily losing their way we must create guides, signposts, new paths. A culture of healing that empowers males to change is in the making. Healing does not take place in isolation.[681]

Initially, the purpose was to have two hours of meeting every week for two years, involving men who were perpetrators of violence, but the model has varied according to location and in regard to the judicial decision. The group is open to three kinds of attendees: i) spontaneous; ii) volunteer, which means by orientation; or iii) compulsory, which is the most common case, and refers to the ones who have been sentenced by a judge to attend. Regarding the language within the group, they avoid the use of essentialized terms such as 'aggressor' or 'perpetuator', by adopting the non-essentialized term of "*homens autores de violência*" (men who committed violence), in order to accentuate the possibility of transformation.

The meetings embrace three ethical principles. The first one is confidentiality, which does not mean that a member cannot speak about the group to others, but that the involved people should not be identified by name. The second is respect in terms of listening and speaking to the others from the group. And the third principle is: non-violence. All this is done to problematize the banalization of violence as a pedagogic instrument, as is easily seem in a popular Brazilian saying "*é panhando que se aprende*" (it is by suffering/being beaten that one learns). In sum, it is a space to enable dialogue as a tool to express vulnerability, difficulties, and rage without using violence.[682]

According to interviews by Paula Licursi Prates with members of the GM, the initial understanding of violence is often constrained to urban and patrimonial violence, rather than the domestically located one. This is clearly shown in the sentence used by one male interviewee: "we are not criminals. He [the police] came with a gun and cuff, wow, it looked like a special operation for a robbery […] But no, it was a fight with a woman." Indeed, men who commit physical attacks, commonly accompanied by verbal abuse of women, are unlikely to think themselves deviant. "On the contrary they usually feel they are entirely justified, that they are exercising a right", as Connell well noted in

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[681] Ibid., at 249.
[682] Andrade, 'Grupos De Homens E Homens Em Grupos: Novas Dimensões E Condições Para as Masculinidades', at 194, 99.

his research on masculinity.[683] In this way, many of the interviewees heard by Prates reveal in the first meetings a sentiment of injustice and a desire for revenge.[684]

Nevertheless, it seems that after attending the GM, the outlined masculinized desire of revenge as well as the comprehension of gender roles have actually been transformed for many of them. According to the initial results presented by the *Núcleo de Combate à Violência Doméstica e Familiar contra a Mulher* from Taboao da Serra, between 2014-2016, the criminal recidivism rate of men attending the group reduced from 65% to 2%.[685]

Thirdly, the challenge of reimagining legal practice demands a decolonial and feminist rereading of legal advocacy, especially but not exclusively regarding gender-based violence. The *oitiva* (legal hearing or inquiry) and the standard criminal investigation are especially problematic in cases of gender-based violence, since they are often traumatic and therefore extremely hard to speak about; and often remain unreported due to the masculinized and re-victimization structures of the criminal justice system (police, lawyer, judge).

> [at criminal investigations] they want to know the 'facts' and therefore require a story constructed in that manner. Stories told in this arena also need to have some aspects of 'verifiable truth' for them to be considered a 'good' or 'useful' story. The nature of gendered and sexual violence means there are rarely any witnesses, and it is in part the police's attempt to establish a historical and verifiable truth that leads to the traumatic experience of the criminal justice and reporting process. In our adversarial legal system, in the few cases that come to court, these are the very aspects that will be open to scrutiny. Most, if not all, of these expectations about stories are based on myths about sexual violence, responses to it, and what a survivor will 'look' and act like. [686]

"It is extremely difficult to speak about violence in a society that structurally blames *you* for it", noted the black bisexual feminist activist I spoke in Salvador. Another woman engaged in grassroots movements called attention to the inadequate conditions in Brazil for making a report of gender-based violence. She described that women are standing up in front of the trial desk at a hall where everyone can hear your personal story, which is often permeated by pain, intimacies and traumas.

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[683] Connell, *Masculinities* at 83. ibid., at 213.

[684] Paula Licursi Prates and Augusta Thereza De Alvarenga, 'Grupos Reflexivos Para Homens Autores De Violência Contra a Mulher: Sobre a Experiência Na Cidade De São Paulo', in Eva Alterman Blay (ed.), *Feminismos E Masculinidades: Novos Caminhos Para Enfrentar a Violência Contra a Mulher* (São Paulo: Cultura Acadêmica, 2014) at 230.

[685] MPSP-GEVID, 'Projeto Tempo De Despertar', (Ministério Público do Estado de São Paulo (MPSP). Grupo de Atuação Especial de Enfrentamento à Violência Doméstica e Familiar contra a Mulher (GEVID) - Zona Leste 1, 2017).

[686] Mcmillan, *Feminists Organising against Gendered Violence* at 179-80.

In this regard, the legal practice is not only permeated by a neocolonial culture that silences women, but it is a crucial and active part of it.[687] "Violence and trauma is inextricably linked to emotion; some of the most disturbing, painful and terrifying aspects of human existence",[688] and element that has been ignored by most criminological theory.[689] How then as critical researchers and legal operators working on issues of violence can we transform the practice of silencing? How can we contribute to a transformation of unspeakable into speakable? As shared by Lesley McMillan in her research on gendered violence, "I became aware that we do not just *know* how to listen to stories of trauma, but we must *learn* to listen to them."[690]

The notion of *escuta* has been strongly emphasized by the women struggling against violence. Different from the legal practice of *oitiva*, they advocated for the adoption of the term *escuta* used by social workers. *Escuta* comprehends the person not reduced to the category of a victim of violence, but as a full human being existent before and after that. Thus, the term brings a socio and ontologically embodied perspective to legal practice. That is to say, lawyers and judges should offer an *escuta* that is humane, respectful, non-judgmental, and they should especially do so when dealing with cases of violence against women that usually encompasses a hidden continuum of unspoken violence, silences and menaces.

In *Feminists Organising Against Gender Violence* (2007), Lesley McMillen defines "active listening" as the difficult process of listening to violence, especially when considering the experience of trauma and the difficulties in articulating it. As the author explains:

> There is an anticipation that narratives will take a chronological form, that events will be ordered and easily followed, that the central actors will clearly emerge, and we will follow the story through a 'logical' sequence of events. The women I interviewed in all cases attempted to tell me their stories in an ordered chronology, however this often proved difficult. […] I explored these gaps in memory with women and the distress it caused. The distress experienced was linked to concerns about credibility and the 'truth' status of

[687] More, see Mcmillan, *Feminists Organising against Gendered Violence* at 168. ibid., at 168-9. Byrne, C.A. & Kilpatrick, D.G. (1999) 'Female Victims of Partner versus Non-partner Violence: Experiences with the Criminal Justice System', *Criminal Justice and Behaviour* 26: 3. Chesney-Lind, M. (1999) 'Challenging Girls' Invisibility in Juvenile Court', *Annuls of the American Academy of Political and Social Science* 564: 185–202. Koss, M.P. & Heslet, L. (1992) 'Somatic Consequences of Violence against Women', *Archives of Family Medicine* 1: 53–9. Hudson, B. (1998) 'Restorative Justice: The Challenge of Sexual and Racial Violence', *The Journal of Law and Society* 25: 2.

[688] Ibid., at 167. Coffey, R. (1998) *Unspeakable Truths and Happy Endings: Human Cruelty and the New Trauma Therapy*, Maryland, Sidran Press. Code, L. (1993) 'Taking Subjectivity into Account', in L. Alcoff & E. Potter (eds) *Feminist Epistemologies*, London, Routledge.

[689] Coffey, R. (1998) *Unspeakable Truths and Happy Endings: Human Cruelty and the New Trauma Therapy*, Maryland, Sidran Press. Code, L. (1993) 'Taking Subjectivity into Account', in L. Alcoff & E. Potter (eds) *Feminist Epistemologies*, London, Routledge.

[690] Mcmillan, *Feminists Organising against Gendered Violence* at 171.

their story. Women explained that they made considerable effort to make their story sound 'good', which on further investigation meant 'believable'. The culture of silence is tied up with the notion that traumatic experiences are unbelievable. In relation to sexual and gendered violence it is also tied up with our society's tendency to disbelieve women survivors of violence. Women themselves are starkly aware of this. [691]

This means that, in the moment of reporting violence to a lawyer, police officer or judge, they would adopt the principle of *active listening*, that I will rename to *careful listening*. My own experience of listening to the stories of violence that were spontaneously shared by women during the fieldwork demonstrated how the practice of listening should not be misunderstood to be an easy or formal exercise. Rather, it demands a serious confrontation with the culture of silence produced and reinforced by the current legal system, that demands a cross disciplinary and humanized sensibilization of legal professionals.

Hence, different from a neoextractivist factory or a neoliberal enterprise, legal assistance should not be reduced to an objective and careless technical assistance placed in a trial line of production and permeated by pre-fixed questionnaires. Rather, the act of *escuta* demands a respectful consideration of *the time* required for each survivor woman to speak. It takes into consideration the multiple obstacles faced by any person who has been silenced for a long period of time, to speak about violence; especially considering that most of them, when attempted to do it, had their narratives depreciated, disbelieved and sometimes even condemned. Based on that, legal assistance should integrate a web of care provided along with an interdisciplinary team, addressing both the survivor woman and the man who committed the violence.

In sum, this section examined the challenge to reimagine and transform practices and discourses of the law *from within*, in the position of legal practitioners, researchers, scholars and professors.

(v) Disputing Democracy

This last section brings attention to one of the most pressing challenges of today, the reinvention of democracy in the current context of authoritarian and anti-political tendencies. Moving *from within* and *from below*. Rearranging the margins to the center. To more closely analyze the notion of democracy, this research examines three main

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[691] Ibid., at 177-8.

questions: Would the problem of democratic representation concern only the fact of having *more* women in the arena of institutional politics? How can grassroots movement struggles (*from below*) be articulated with institutional politics (*from within*), without being captured by it (*top down*)? And, finally, what are some existing and ongoing strategies for disputing and reinventing democracy today?

Gender Quotas: Counting Again?

Elections do not totally define the meaning of democracy. Yet, they do present a solid frame through which democratic discourse can be materially examined. With one of the lowest female voter counts in the world, Brazil presents a dramatic scenario in terms of democratic representation. According to the report, *Women in Politics: 2019*, Brazil was ranked 133rd of a total of 191 positions of women in parliament, and at 149th out of 178 of women in ministries worldwide.[692]

Different from the similarities presented in feminicide rates, Brazil contrasts with the region in respect to political representation. South America was the first region to achieve an average of more than 30 per cent women represented in both chambers of parliament in the world. After the re-democratization period from the 1990s, the average number of women in lower houses in the Americas augmented from 9% to 27% (2015). The emergence of gender quotas was also marked by the international events at the Fourth World Conference on Women organized by the UN in Beijing in 1995. The increase in female representation can be perceived as a result of a pioneering "call for parity" establishing the minimum quota of 40 per cent for women as candidates, already

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[692] IPU and UNWOMEN, 'Women in Politics: 2017', (UN Women, Inter-Parliamentary Union, 2017). See Santana, 'Feminismo, Pluralismo e Democracia', at 256-7. Avelar and Rangel, 'Como as Mulheres Se Representam Na Política? Os Casos De Argentina E Brasil', at 274.

adopted in eight countries of the region (Argentina, Bolivia, Costa Rica, Ecuador, Honduras, Mexico, Nicaragua and Panama).[693]

Ergo, nearly every country in Latin America already introduced gender quota regulations in their electoral codes or constitutions. Gender quotas are affirmative action measures created to reduce the historical gap between men and women in political representation. Thus, the measure challenges the myth of meritocracy while recognizing the structurally masculinized domain of formal politics.[694]

On top of that, no other region in the world has elected as many women for president or prime minister in recent years. As prime minister, Kamla Persad-Bissessar in Trinidad y Tobago (2010-2015), and Portia Simpson in Jamaica (2005-2007; 2010-2016). And as president, Michelle Bachelet in Chile (2006–2010, reelected in 2013); Laura Chinchilla in Costa Rica (2010–2014); Cristina Kirchner in Argentina (2007–2011; 2011–2015); and Dilma Rousseff in Brazil (2011–2014; 2014–2016). Such a political period is named by the literature as the "pink tide".[695]

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[693] See IPU, 'Women in Parliament in 2017', *The year in review* (Geneva: Inter-Parliamentary Union, 2017). IPU, 'Women in Parliament in 2018', *The year in review* (Geneva: Inter-Parliamentary Union, 2018). ECLAC, 'Latin America and the Caribbean: Looking Ahead after the Millennium Development Goals: Regional Monitoring Report on the Millennium Development Goals in Latin America and the Caribbean', (Santiago de Chile: Economic Commission for Latin America and the Caribbean (ECLAC), 2015). IPU, 'Parline Database on National Parliaments', (Inter-Parliamentary Union (IPU), 2015). UNDP, 'Más Allá De Los Números: Las Mujeres Transforman El Poder Legislativo En América Latina Y El Caribe', (Panama: United Nations Development Fund (UNDP), 2015). Betilde Muñoz-Pogossian et al., 'Women, Politics, and Democracy in Latin America: An Introduction', in Tomás Došek et al. (eds.), *Women, Politics, and Democracy in Latin America. Crossing Boundaries of Gender and Politics in the Global South* (New York: Palgrave Macmillan, 2017) at 2. Stephen, *Women and Social Movements in Latin America. Power from Below* at 5.

[694] From the eighteen democratic countries of the region, only Guatemala has not adopted gender quotas. According to Gatto, the "democratic countries" are: Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Uruguay, and Venezuela. See Malu A. C. Gatto, 'The Variation of Quota Designs and Their Origins in Latin America (1991–2015)', in Tomás Došek et al. (eds.), *Women, Politics, and Democracy in Latin America. Crossing Boundaries of Gender and Politics in the Global South* (New York: Palgrave Macmillan, 2017) at 45, Betilde Muñoz-Pogossian et al., 'Women, Politics, and Democracy in Latin America: An Introduction', ibid. at 1. Waylen, 'Analysing Women in the Politics of the Third World', at 12. Jennifer M. Piscopo, 'Beyond Hearth and Home: Female Legislators, Feminist Policy Change, and Substantive Representation in Mexico', *Revista Uruguaya de Ciencia Política*, 23/1 (2014), 87–110. Beatriz Llanos, *A Modo De Introducción: Caminos Recorridos Por La Paridad En El Mundo. In La Apuesta Por La Paridad: Democratizando El Sistema Político En América Latina. Los Casos De Ecuador, Bolivia Y Costa Rica* (Perú: Instituto Internacional para la Democracia y la Asistencia Electoral, 2013) at 17-43. Nélida Archenti and María Inés Tula, 'Critical Challenges of Quotas and Parity in Latin America', in Tomás Došek et al. (eds.), *Women, Politics, and Democracy in Latin America. Crossing Boundaries of Gender and Politics in the Global South* (New York: Palgrave Macmillan, 2017).

[695] Betilde Muñoz-Pogossian et al., 'Women, Politics, and Democracy in Latin America: An Introduction', ibid. at 2. Karel Kouba and Petra Poskočilová, 'Los Efectos De Las Reglas Electorales Sobre El Éxito De Las Mujeres En Las Elecciones Presidenciales En América Latina. América Latina Hoy', *Revista de Ciencias Sociales* 66 (2014), 17–46. Dinorah Azpuru, 'Does Gender Make a Difference? The Gender Gap in Latin American Politics', in Tomás Došek et al. (eds.), *Women, Politics, and Democracy in Latin America. Crossing Boundaries of Gender and Politics in the Global South* (New York: Palgrave Macmillan, 2017) at 109.

Regarding the transnational set, gender quotas is a growing trend. In *Quotas for Women in Politics* (2009), Mona Krook traces the increase of quotas in the world, pointing to an especially big rise in the numbers after the year 2000:

> Between 1930 and 1980, only ten countries established quota provisions, followed by twelve states in the 1980s. Over the course of the 1990s, however, quotas appeared in more than fifty countries, which have been joined by nearly forty more the year 2000. As a result, quotas now exist in more than one hundred countries around the world, but more than three-quarters of these measures have been passed within the last fifteen years. In line with these developments, research on gender quotas has become one of the fastest growing subfields of research on women and politics.[696]

Even though Brazil did not embrace the regional call for parity, the country adopted gender quotas beginning in 1995 (Law n. 9100/95). In 1997, the Law n. 9504 established a party quota of 30 percent for women, however, it was not obligatory to fill the positions. As a result of the lack of measures for implementation, the female representation actually decreased from 6.2 to 5.7 per cent in the following elections of 1998. Only in 2009, with Law n. 12034, was there established the obligation of filling the quota for women, transforming the party quota into a legislative quota.

In this regard, this dissertation outlines three modalities of quotas: the party quota, the legislative quota, and the reserved seats quota. The party quota is the most basic one. It is adopted voluntarily by a political party that determines a minimum proportion of women for political offices. Moving on to the second type, the legislative quota is enacted through legal reforms to electoral law, and occasionally to constitutional law. Instead of being voluntary, this modality requires that all parties nominate a certain proportion of female candidates. Finally, the reserved seats have been commonly established through legal reforms to the constitution, and in some cases to the electoral law. Different from the previous two, this quota establishes a minimum number of women to actually occupy political seats and not only just run as candidates.[697]

Besides the outlined modalities, gender quotas also require implementation designs. Based on the data provided by IPU at the *Women in Parliament in 2018* report, it is possible to trace a relation between well-designed gender quotas and the considerable increase of women elected. In this regard, Costa Rica presents an interesting case. In implementing the 1990 "Law for the Promotion of Women's Social Equality" (Law n. 7142), the country decided to join the regional "call for parity" and revised the electoral

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[696] Mona Lena Krook, *Quotas for Women in Politics: Gender and Candidate Selection Reform Worldwide* (Oxford, New York: Oxford University Press, 2009) at 3-4.
[697] Ibid., at 6-9.

code so as to determine the legislative quota of 50% of the candidates to be women and adopting the "rule of alternation" in which two persons of the same sex cannot be subsequently included in the list of candidates. Additionally, it also designated state funding for "capacity building of men and women in the public sphere to enhance policymaking and ensure that women in government can fully utilize their political voice".[698]

Surprisingly, the representation of women in parliament actually decreased by more than 5 percent in the follow-up elections of 2014. Political parties simply deviated from the measures by placing men at the top of their lists, distorting the legal demand for parity. In 2016, the Superior Electoral Tribunal of Costa Rica addressed the issue by defining the parity not only "vertically" in terms of party lists, but also "horizontally" regarding the party lists across districts. This institutional reaction produced an equal number of women and men topping the party lists in 2018, which resulted in a growth of 12.3 per cent (from 33.3 to 45.6%) in women's representation in the parliament. This work considers the case as illustrative of the importance of adopting well-designed measures to properly implement legal reforms.[699]

Looking once again at Brazil, in the most recent elections of 2018, the Supreme Court (*Supremo Tribunal Federal* or STF) finally established that 30 percent of the party fund should be allocated to make women candidatures possible and competitive. In the same year, the Electoral Court (*Tribunal Superior Eleitoral* or TSE) established the need to reserve campaign time for women in the party.[700] These measures surely contributed to making 2018 the year with the highest number of women candidates in the history of the country. [701]

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[698] Cf. IPU, 'Women in Parliament in 2018'. Muñoz-Pogossian et al., 'Women, Politics, and Democracy in Latin America: An Introduction', at 2. COHA, 'Overcoming Entrenched Perceptions: Women and Leadership in Costa Rica', (Washington: Council on Hemispheric Affairs (COHA), 2013).

[699] See Danusa Marques, 'O Que São as Cotas Para Mulheres Na Política E Qual É Sua Importância?', *Gênero e Número,* (2018). IPU, 'Women in Parliament in 2018'. Muñoz-Pogossian et al., 'Women, Politics, and Democracy in Latin America: An Introduction', at 2. Leslie A. Schwindt-Bayer, 'Making Quotas Work: The Effect of Gender Quota Laws on the Election of Women', *Legislative Studies Quarterly* XXXIV /1 (2009), 5–28.

[700] Ibid. Avelar and Rangel, 'Como as Mulheres Se Representam Na Política? Os Casos De Argentina E Brasil', at 260-1.

[701] IPU, 'Women in Parliament in 2018'.

Politics of Violence

Nevertheless, this dissertation argues that the numeric increase in women candidates has not transformed the masculinized and sexist way in which formal politics operates. The fieldwork conducted in the months of May and June 2018 preceded the largest national elections carried out in October of the same year. Based on my conversations, every woman who was either running for office or a member of a political party, described institutionalized politics as an extremely masculinized and violent environment.

The analysis points to some factors that certainly contribute to this: i) the hegemony of men in the leadership position of political parties; ii) the patriarchal culture that still naturalizes women's work as domestic activities, reproducing the institutional politics as extremely unfavorable spaces for their participation; iii) the neocolonial concentration of property; and iv) the financial inequality regarding the funding for elections within the parties.[702] These obstacles make women abandon or not even consider participating in institutional politics or the political party.

For example, one woman described her experience in the political party as having every single day to "*peitar a macharada*" (confront the *macho* men). Another described the huge challenge of a female voice being taken into consideration inside any party in Brazil. Additionally, a senior trade union woman member of a political party since the foundation in the 1980s exposed the way that "political parties only want female leaders to get more votes for male candidates." In sum, it is not a surprise that all of the women expressed a lack of desire to become a candidate, even the ones who were actually running in the elections that same year.

As a reaction against the coaptation of female representation, many feminists have been criticizing women's participation in institutional politics as the "feminine face of a masculine power."[703] Such a "feminine face" has also been referred to by the academic literature as a "femocrat."[704] While taking seriously the critique posed by thinkers such as Maria Galindo, I do not join them in limiting women's struggle to the "outside" of formal

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[702] See Avelar and Rangel, 'Como as Mulheres Se Representam Na Política? Os Casos De Argentina E Brasil', at 262. Santana, 'Feminismo, Pluralismo E Democracia', at 256. Biroli, *Gênero E Desigualdades: Os Limites Da Democracia No Brasil* at 175.

[703] Galindo, *No Se Puede Descolonizar Sin Despatriarcalizar. Teoría Y Propuesta De La Despatriarcalización* at 41-2. ibid., at 173-4.

[704] Mcmillan, *Feminists Organising against Gendered Violence* at 28.

politics.[705] This essentialization contributes to the alarming depoliticization of not only academia and "scientific" works, but also of legal and political debates within society. This analysis follows Wendy Brown in conceptualizing depoliticization as "removing a political phenomenon from comprehension of its *historical* emergence and from a recognition of the *powers* that produce and contour it".[706]

In this concern, the analysis challenges the definition of state as an essentialized instrument of oppression and domination of the powerful against the powerless.[707] Differently, the modern state is here conceived of as a site for political struggles and dissensus that has been continually and historically built. As argued by this research, the notion of power is defined as something that permeates and constitutes our ontological, political and legal bodies and relations. This comprehension neither implies a denial of the violence of historical constructions such as "we, the people" in terms of national identity, nor does it embrace a blind reading of the relations of power involved in institutionalized politics, nor does it ignore the real limitations established by the sphere of rights and the logic of exclusion and inclusion. Rather, it considers institutional politics as a site of disputing, contesting, resignifying and radically transforming the neocolonial structures of the politics of feminicide and neoliberal dispossession.[708]

The violence implied in the hyper-masculinized practices of institutional politics is not particular to Brazil. This is what the Inter-Parliamentary Union demonstrates in their report, *Sexism, Harassment and Violence against Women in Parliaments in Europe* (2018), based on conversations with 123 women members of parliament or parliamentary staff from 45 countries in Europe. According to the report, the strong majority of the interviewed women affirmed to have already suffered psychological violence in the course of their terms in office (85.2%); been the target of comments relating to their physical appearance or based on gender stereotypes (67.9%); received death threats or threats of

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[705] More, see Dietz, 'Context Is All: Feminism and Theories of Citizenship', at 75.

[706] Wendy Brown, *Regulating Aversion. Tolerance in the Age of Identity and Empire* (Princeton and Oxford: Princeton University Press, 2006) at 15-6. Gohn, *Novas Teorias Dos Movimentos Sociais* at 150.

[707] For an example of this essentialized position, see Mackinnon, *Toward a Feminist Theory of the State*.

[708] In a similar direction, see Brown, *Undoing the Demos: Neoliberalism's Stealth Revolution* at 178. Mouffe, *The Democratic Paradox* at 20. Mouffe, 'Democratic Citizenship and the Political Community', at 229. Mcmillan, *Feminists Organising against Gendered Violence* at 43-4. Barrett, *Women's Oppression Today. The Marxist/Feminist Encounter* at 462. Waylen, 'Analysing Women in the Politics of the Third World', at 16, Sonia E. Alvarez, *Engendering Democracy in Brazil: Women's Movements in Transition Politics* (Princeton: Princeton University Press, 1990). On the notion of power, see Foucault, 'Diálogo Sobre o Poder'. Michel Foucault, 'Afterword: The Subject and Power', in Paul Rabinow and Hubert L. Dreyfus (eds.), *Michel Foucault, Beyond Structuralism and Hermeneutics* (2nd edn.; Chicago: The University of Chicago, 1983), Foucault, *Em Defesa Da Sociedade. Curso No Collège De France (1975-1976)*, Michel Foucault, 'Precisões Sobre o Poder: Respostas a Certas Críticas', *Ditos E Escritos* (2nd edn., v. Estratégia, Poder- Saber; Rio de Janeiro: Forense Universitária, [1978] 2006b).

rape or beating (46.9%). The perpetrators were not only political opponents, but also even their colleagues from the same party.[709]

Likewise, Brazilian women described the dynamics of the political parties as sexist, hyper-masculinized, racist, and revolting. Violence is part of the very masculinized dynamic of institutional politics asserted in terms of competitivity, aggressivity, dispossession, abuse and discrimination. The recent political murder of the black feminist activist and politician, Marielle de Franco (March 2017) and the political coup of the former president Dilma Rousseff (2016) represent extreme cases of the feminicidal logic of politics.[710]

Regarding the racial element, quantitative studies and statistical data concerned with black women in politics have been extremely scarce. One of the reasons for that is the fact that race was only regarded as a statistical data in the elections of 2010. As a consequence of that, Brazil only produced the first set of national data referring to both gender and race in 2014.[711]

In a nutshell, the strategy of gender quotas is situated by this work in the domain of the politics of rights, and as an insufficient solution for transforming the neocolonial structures in which political parties have been conceived. This does not mean to dismiss its importance as a relevant measure *from within*. The research will now examine how peripheric feminists can move the neocolonial structures *from below* and *from within*.

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[709] IPU and Pace, 'Sexism, Harassment and Violence against Women in Parliaments in Europe', *Issues Brief* (Geneva: Inter-Parliamentary Union (IPU); Parliamentary Assembly of the Council of Europe (PACE), 2018).

[710] The impeachment of the former president Dilma Rousseff and the political assassination of the activist and politician Marielle Franco are considered two crucial events in Brazilian recent politics. Dilma Rousseff was the first woman to become president in Brazil at the election of 2010, and again re-elected in 2014. Marielle Franco was a black feminist, sociologist and activist engaged with anti-racist and LGBT agendas. In 2016, she was the fifth most voted candidate for the city council of Rio de Janeiro (2017-2020). She presented 116 proposals and 16 bills, among them one that guarantees abortion in legal cases, to open care centers day and night, to create campaign against sexual harassment on public transportation, etc. Coming from the margins, Marielle Franco challenged the solidified structures of democracy from inside. On March 14th 2018, returning from a public talk on *Jovens Negras Movendo as Estruturas* (Black Female Youth Moving the Structures), Marielle was killed inside her car by four shots to the head, together with her driver, Anderson Pedro Gomes, who also died. Nothing was stolen. Cf. Franco, 'Mulher, Negra, Favelada E Parlamentar: Resistir É Pleonasmo', at 119. Biroli, *Gênero E Desigualdades: Os Limites Da Democracia No Brasil* at 176. Pasinato, 'Dez Anos Mais Um: A Implementação Da Lei Maria Da Penha No Passar Dos Anos', at 64. Rezzutti, *Mulheres Do Brasil: História Não Contada* at 183-4. Biroli, *Gênero E Desigualdades: Os Limites Da Democracia No Brasil* at 171. ibid., at 210.

[711] Rios, 'A Cidadania Imaginada Pelas Mulheres Afro-Brasileiras: Da Ditadura Militar À Democracia', at 251. Brazil, 'A Participação Das Mulheres Negras Nos Espaços De Poder', (Brazil: Secretaria de Políticas de Promoção da Igualdade Racial (Brazilian Secretariat of Policies for the Promotion of Racial Equality); Programa Interagencial para a Promoção da Igualdade de Gênero, Raça e Etnia do Sistema Nações Unidas no Brasil (Interagency Thematic Group on Gender, Race and Ethnicity Equality from the United Nations in Brazil), 2014).

Moving *from Within* and *from Below*

In the paper, *Mulher, Negra, Favelada e Parlamentar: Resistir é Pleonasmo*, Marielle Franco stressed the importance of a black activist woman from a favela succeeding in "occupying" institutional politics. Different from the notion of inclusion, I conceptualize the verb *occupy* as the articulation of voice, body, political guidelines and positionality together into the space of historical silence, invisibility and marginalization institutionalized by formal politics, and as the dispute of colonial, patriarchal, extractivist and neoliberal definitions of democracy and community. Franco argued for the construction of a "new political aesthetics" able to address gender, race, class and popular territories and to disrupt the neoliberal dehumanizing logic of profit.[712]

Indeed, in conversations throughout the fieldwork, women engaged in grassroots movements frequently mentioned Marielle Franco while emphasizing the need to *occupy* public spaces, debates, agendas, and institutional politics to make their voices visible and speakable.

As a "seed", Franco's murder has been vividly evoked by feminists in Brazil in the necessity to amplify the intersectional struggles within the institutional sphere of politics. The seed's reference re-articulates the elements of soil, territory, *ancestralidade*, ecology, grass and roots outlined at the beginning of the chapter. Paraphrasing Lorde, peripheric women have transformed anger into fuel to strengthen and move the dispute within political parties and formal politics even further.[713]

As a result of the intensive peripheric mobilization of women in the 2018 elections, an indigenous woman and a black transwoman were elected to legislative seats for the first time in the country's history. In fact, it was the first time that a black transwoman was elected for any legislative governmental position in the entire world. In this context, the dissertation analyzes the concept of democratic representation beyond the essentialist framework of biological or 'natural' similarities. That is to say, beyond the notion of representation between members of the same group. Based on that propose, this work attempts a further reading of the *new political aesthetics* claimed by Marielle Franco.[714]

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[712] Franco, 'Mulher, Negra, Favelada E Parlamentar: Resistir É Pleonasmo', at 120.
[713] Lorde, 'Uses of Anger: Women Responding to Racism'.
[714] Archenti and Tula, 'Critical Challenges of Quotas and Parity in Latin America', at 36. Chantal Mouffe, 'Feminismo, Ciudadanía y Política Democrática Radical', *Debate Feminista,* 4/7 (1993), 3–22.

This work conceptualizes democratic representativeness through the black feminist notion of *lugar de fala* (locus of enunciation). Literally, *lugar de fala* refers to the positionality (*lugar*) from which each person speaks (*fala*). Conceptually, the notion was coined by Lélia Gonzalez and refers to the geopolitical and ontological constitutions of our own bodies that locate us to see, feel, experience and speak up from different positions within society.[715]

I provide a material example to embody the notion. A black heterosexual transwoman without disability would experience the public system of education, for instance, in a very different manner than a white gay cisgender man with a vision disability. Both of them would be able to criticize such a system, for sure, but their perspectives would be grounded in very different positions and experiences. Drawing on that, I additionally point out that positionality is not a one-dimensional, essentialized or static category, but something fluid, historically constructed and able to be transformed according to the geopolitics of space and time. Moreover, it does not imply a "hierarchy of oppressions",[716] but rather invokes the importance of making visible the fact that some voices and positions have been historically marginalized, silenced and non-represented in the domains of theory, science, media and institutional politics.

The analysis will now conceptualize the *new political aesthetics* invoked by Franco through the political project named as "*mandata quilombo*" by Malunguinho, as a movement *from below* and *from within*.

Towards a "New Political Aesthetics": *Mandata Quilombo*

Mandata is the feminine form of the word *mandato* which means the mandate of a politician. Thus, it symbolizes a new and feminized form of making politics that is not based on dispossession, profit, competition and violence. Rather, *mandata* is the attempt to materialize democracy by making representation a reality in the institutionalized spheres of the nation state. In the presentation of her *mandata*, Malunguinho states:

> *"esta candidatura é também um chamado para responsabilidade dos que não vivem essas violências, mas que entendem que numa sociedade produtora de violências e apagamentos históricos não haverá possibilidade de bem estar coletivo se a opressão, a morte, o abandono, a precarização de alguns corpos*

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[715] Gonzalez and (Eds.), *Lugar De Negro*, Gonzalez, 'Racismo E Sexismo Na Cultura Brasileira', Rios and Ratts, 'A Perspectiva Interseccional De Lélia Gonzalez'.

[716] Audre Lorde, 'There Is No Hierarchy of Oppression', (2009 edn.; Oxford, New York: Oxford University Press, 1983).

ainda continuar. A violência [...] é fruto desta forma desumana pelo qual a sociedade foi se organizando e o estado (poder público) foi reafirmando e vice-versa. Este modelo se deu porque quem sempre esteve no poder para tomar a decisão sobre nós foram sempre pessoas distantes de nossas realidades [...]."

This mandate is also a call for responsibility of those who do not live these [neocolonial] forms of violence, but understand that there is no possibility of collective well-being in a society that continually reproduces violence and historical erasure expressed in terms of oppression, extermination, negligence, and precarity against specific bodies. The violence […] is the result of the inhumane way in which society was organized and the nation state constituted. This model is the result of the fact that those who always were in [institutional] power to make decisions about our lives, were also completely distant from our daily struggles [...]. [my translation]

"A luta das mulheres negras não é uma luta que fala para si. É uma luta pela emancipação coletiva. Uma vez que fomos sujeitas a todas as violências estruturais, criamos a habilidade de olhar o todo e perceber que se não houver paz para nós, não haverá de ter pra ninguém. Ter o afrocentro como epicentro é fazer tensionar a lógica do poder estabelecido, isso não diz respeito a deixar alguém de lado, mas sim a propor um reequilíbrio de forças, que consequentemente produzirá outros horizontes, efetivamente humanizadores porque esta luta é pela vida." [717]

The struggle of black women is not only fighting for oneself. It is a struggle for collective emancipation. Since we [black women] have been subjected to every kind of structural violence, we have created the ability to see the whole and realize that if there is no peace for us, there will be no peace for anyone. To place the afrocentrism at the center is to disrupt the logic of the institutionalized power. It does not mean to leave someone aside, but rather to propose a rebalancing of forces, which will consequently produce other horizons, effectively humane, because this struggle is for life. [my translation]

Drawing on these two statements, the analysis challenges the division between practical and strategic feminist movements sustained by Maxine Molyneux.[718] Accordingly, feminist movements would be classified by: i) practical-interest, which is mainly related to specific interests and survival demands; or ii) strategic-interest that would be concerned with social issues and structural transformations.

Disrupting these assumptions, this research joins the critique made by Lynn Stephen in pointing out that the practical, as the domestic and the personal are not outside the center of the political organizational of society. In Stephen's words, "the blending of personal identity with political activism underscores how different and conflicting pieces of individual identity interact with structural conditions to influence the evolution of political commitment and strategy".[719] In the same direction, Malunguinho states that,

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[717] Erica Malunguinho, 'Quem Sou', in Facebook Official Page of Erica Malunguinho Deputada (ed.), (Facebook, 2018).

[718] Cf. Maxine Molyneux, 'Mobilization without Emancipation? Women's Interest, the State and Revolution in Nicaragua', *Feminist Studies,* 11/2 (1985), 227–54.

[719] Stephen, *Women and Social Movements in Latin America. Power from Below* at 11-2, 22-3.

"The struggle of black women is not only fighting for oneself. It is a struggle for collective emancipation."[720]

Furthermore, I refer to *lugar de fala* not merely in reference to the personal experience of an individual body. *Lugar de fala* touches on the public aspects of experiencing the world from one *locus*, as well as articulates practical survival with strategies of social transformation. "Since we [black women] have been subjected to every kind of structural violence, we have created the ability to see the whole and realize that if there is no peace for us, there will be no peace for anyone." The displacement of the binary line that demarcates the public and the private, the universal and the particular, constitutes a crucial step towards reimagining and reinventing democracy and citizenship beyond their historical liberal framework.

"It does not mean to leave someone aside, but rather to propose a rebalancing of forces, which will consequently produce other horizons, effectively humane, because this struggle is for life."[721] Malunguinho gives body to the notions of "articulation" and "forbidden alliance" as the common ground of political dispute. At the same time, she invokes the geopolitical location *from below*, from where their movement would necessarily tremble the entire structure in which the neocolonial nation state has been based.

Moreover, her *mandata* invokes the principles of *ubuntu* to resignify institutional politics. "To place the afrocentrism at the center is to disrupt the logic of the institutionalized power." The *ubuntu* interdependent and interconnectedness of the political community are profoundly stressed while contesting liberal individualism, precarious labor and neocolonial economy. "[T]here is no possibility of collective well-being in a society that continually reproduces violence and historical erasure expressed in terms of oppression, extermination, negligence, and precarity against specific bodies". As the social spiral described in the *ubuntu* notion of community, if one part is affected, the entire spiral is affected.

As previously discussed, the Afro-Brazilian *ubuntu* was grounded in the diasporic resistance enacted in *quilombos*. Moving on now to an analysis of *quilombo*, the term signifies much more than a physical territory. It is a form of governmentality; it is a form of technology that has been created in resistance of the colonial logic.

The notion of *quilombo* has been transported from the context of *escravismo* (slavery 2) to reflect on the current decolonial rupture within the neocolonial nation state

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[720] Diário Oficial, '10ª Sessão Solene. Lançamento Da Frente Parlamentar Em Defesa Dos Direitos Das Pessoas LGBTQIA+', (129 (135); São Paulo: Poder Legislativo de São Paulo 2019).
[721] Malunguinho, 'Quem Sou'.

system.[722] In this respect, the term *quilombo urbano* (urban quilombo) was coined by the black scholar Beatriz Nascimento in 1982 for addressing the territory of favelas and peripheries as spaces of decolonial resistance in Brazil.

Thus, *quilombo* is updated into the political grammar of democracy as a signifier of decolonial resistance, periphery, community and struggle for better living conditions for those placed at the margins. It means to insert bodies, narratives, and struggles into the dimension of citizenship that they have been historically erased from.[723]

In the same line, Malunguinho redefines the legal term of *reintegração de posse* (recovering possession) from its traditional signification based on the landlord's rights to reclaim the possession of a property inappropriately occupied by others. The *mandata quilombo* resignifies *reintegração de posse* as the political project of repossessing what has been historically and continually dispossessed from othered, marginalized and peripheric people since colonialism.

Such a proposal addresses the demarcation of indigenous and *quilombola* territories, but not only that. It encompasses a broader project of reclaiming erased memories, narratives, and citizenship representation as new political spaces; of disputing the legal structures of power and the grammar of rights; of recovering the dispossessed bodies, knowledges, territories, ways of living together; of collapsing the binaries between private and public, domestic and political, experience and knowledge, particular and universal, reproduction and production; of reinventing a non-imagined community, a *quilombola* democracy.[724]

Finally, this analysis does not address the *mandata quilombo* as an abstract project of an ideal society within the conservative and masculinized forms of current politics. Rather, *mandata* is a corporeal example of an ongoing collective practice, a process of dispute, articulation and resignification of democracy and community.

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[722] Moraes, 'A Filosofia Ubuntu e o Quilombo: A Ancestralidade Como Questão Filosófica', Abdias do Nascimento. Quilombismo. São Paulo: Perspectiva, 2019, at 251. Ibid. Edison Carneiro. O quilombo dos Palmares. Rio de Janeiro: Civilização Brasileira, 1966. Reis and Klein, 'Slavery in Brazil', at 188.

[723] Nascimento, 'Kilombo e Memória Comunitária: Um Estudo De Caso', at 125. Ratts, *Eu Sou Atlântica: Sobre a Trajetória De Vida De Beatriz Nascimento* at 53. More on *quilombo,* see Santos, *Colonização, Quilombos: Modos E Significados*, Moraes, 'A Filosofia Ubuntu e o Quilombo: A Ancestralidade Como Questão Filosófica', Nascimento, 'O Conceito De Quilombo e a Resistência Cultural Negra', Nascimento, 'O Conceito de Quilombo e a Resistência Cultural Negra'.

[724] Oficial, '10ª Sessão Solene. Lançamento Da Frente Parlamentar Em Defesa Dos Direitos Das Pessoas LGBTQIA+'.

~~Final~~ Considerations

As introduced in the very first lines, this dissertation is an embodiment of movements, it is a process in movement, and therefore a conclusion would not be so suitable here. Instead of writing final considerations or providing solutions to the inquiries posed by this work, the following considerations aim to reflect on the traced lines as well as to trace some new lines within the cartographies of survival.

In this regard, I address the first line of this work, its title. Cartographies of survival. "Cartographies" is presented in plural on the grounds that the challenge of surviving demanded a multiplicity of bodies, strategies, methodologies, epistemologies, and therefore, a multiplicity of mappings. The scholarly literature written by Latin American feminists. The human rights' discourse on women's rights. The Brazilian national law on violence against women. The mechanisms of (non-)implementation of the national legislation. The body-archive of women from the grassroots in accessing the legal system. The official reports and statistics on violence. The data on violence provided by NGOs and organizations of the civil society. The material excavation of the colonial and slavery regimes and the creation of the modern ontologies of race, gender, sexuality and class. The emergence of the nation and nationalism within the colonial context. The strategies of peripheric women in surviving and transforming the neocolonial structures of the nation state. The cases of feminicide in the first 52 days of 2019. These were the cartographies drawn along through this dissertation.

Regarding the term "survival", this work decided not to conceptually define it because, as Lorde already said, survival is not an academic skill.[725] "We [black women]

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[725] Lorde, 'The Master's Tools Will Never Dismantle the Master's House', at 19.

have had to learn this first and most vital lesson – that we were never meant to survive".[726] Following the same lines of Lorde, the Brazilian black poet Conceição Evaristo claims in her *pretoguês* "*a gente combinamos de não morrer*" (we agreed to not die).[727] That is, survival involves much more than just breathing and remaining alive. "I am talking here about the very fabric of your lives, your dreams, your hopes, your visions, your place upon the earth".[728]

Depending on where you were born, the color of your skin, the gender you identify with and has been identified with you, and the person(s) you desire to be with, the simple act of survival can be an unbearable and exhausting daily burden. The structural mechanism of othering has been transforming bodies into flesh in the name of civilization, nation, rights, democracy, economy, security and community. These narratives frame the politics of extermination in the form of a naturalized, mechanized, un-named, *unspeakable* terrain.

This was the point of departure for my excavation of violence. A legal dissertation that refused to fragment law from its historical, political, epistemological, social and ontological entanglements; from its material grounds of violence.

In this respect, the use of the term "politics of extermination" might have sounded perhaps too strong or even inaccurate in this work. Such a feeling of discomfort in the reading, page after page, was intentional. This is because "extermination" has been used, within academic writing, mainly in two contexts: i) regarding the elimination of pest, insects, vermin or plagues, used as extermination; ii) regarding human beings, used as "politics of extermination" exclusively in reference to the European context of "massive extermination" and concentration camps of the Holocaust.[729] By constating that, I point out that both colonial genocide and the ongoing neocolonial extermination are addressed

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[726] Lorde, 'The Transformation of Silence into Language and Action', at 41.
[727] Conceição Evaristo, *Olhos D'água* (Rio de Janeiro: Pallas, 2015) at 99.
[728] Lorde, 'Difference and Survival - an Address at Hunter College', at 204.
[729] See Aimé Césaire, *Discours Sur Le Colonialisme* (Paris: Reclame, 1950) at 36-9. Fanon, *Black Skin, White Masks* at 37, Frantz Fanon, 'Racismo E Cultura', *Em Defesa Da Revolução Africana* (Lisboa, Portugal: Livraria Sá da Costa Editora, 1980), Paul Gilroy, *Against Race: Imagining Political Culture Beyond the Color Line* (Cambridge, Massachusetts: The Belknap Press of Harvard University Press, 2001) at 61-2, Paul Gilroy, *Entre Campos: Nações, Cultura e Fascínio Da Raça*, trans. Celia Maria Marinho De Azevedo Et Al. (2007 edn.; São Paulo: Annablume, 1997) at 101-2, Gilroy, *O Atlântico Negro: Modernidade E Dupla Consciência* at 396-7. Foucault, 'Afterword: The Subject and Power', at 209. Foucault, *Em Defesa Da Sociedade. Curso No Collège De France (1975-1976)* at 216, Michel Foucault, 'Eugène Sue Que J'aime', *Dits Et Écrits Iii* (Paris: Gallimard, [1978] 1994) at 502. Alexander Weheliye, *Habeas Viscus: Racializing Assemblages, Biopolitics, and Black Feminist Theories of Human* (Durham and London: Duke University Press, 2014) at 38. Ann Laura Stoler, *Race and the Education of Desire: Foucault's History of Sexuality and the Colonial Order of Things* (Durham and London: Duke University Press, 1995) at 59-60.

in the more "digestible" grammar of discovery, conquest, discrimination, difference, crime, insecurity, police misconduct or abuse of power, to mention just a few of them.

As reinforced many times during this dissertation, the importance of naming should not be underestimated. That is to say, the use of "politics of extermination" intentionally brings to the forefront the colonial structural violence of extermination in its maintenance, in its politics, in its porosity, in its actuality. It refers to an ongoing extermination of narratives, memories, histories, modes of thinking, ways of being, and forms of living. In its brutal dehumanizing meaning, the word "extermination" is used by this thesis to designate the structural violence that has been maintained and (re)produced by the legal discourse, by scientific racist theories, by interpersonal relations, and by institutional politics. As a plague that annihilates the plantation. As a pest that extirpates the fertile soil. From the molecular to the macro, the term alludes to the white supremacist project, the (neo)colonial form of masculinity, the national homogeneity discourse, the epistemicide, the feminicidal logic of institutional politics; the physical, epistemological, political, emotional exhaustion and extermination of the body.

Regarding the micropolitical analysis of this dissertation, the legacy of othering was not argued in a direction of producing guilt or creating distances between 'Ones' and 'Others'. In other words, a takeaway of an idea of an imposition to individually escape binaries would be a profound misreading of this work, because the act of not self-identifying as white, man, heterosexual would not solve much. Differently, the point here was to situate the grounds in which some naturalized binaries have been historically constructed, not as personal identity or preference, but as a structural form of categorizing and organizing modern society in exclusionary terms. By disrupting the boundaries of "either/or" to emphasize an "and", this work intended to unearth the relationality and interconnectivity of 'opposed' categories. Emotional and rational. Productive and reproductive. Society and nature. Feminine and masculine. Human and animal. Domestic and political. Hence, the movement performed was towards opening the *front door* to foster dialogues, create bridges, and articulate transformations from various positionalities.

Still regarding the importance of naming, this dissertation presented some words in a ~~strikethrough~~ form, instead of simply erasing them. For instance, the "chapter ~~minus~~ one", the sections "~~Independence?~~ Coloniality and Development" and "*~~Colonial Difference~~* Creating the Common" in chapter two, the "~~Identity Politics and Recognition?~~ Articulation and Survival" in chapter three, and this very "~~Final~~ Considerations". The act of risking performs here an active part of the argumentation, since it maintains and at the

same time problematizes the words behind the trace. Through such an unconventionality, I tried to reconsider some naturalized conventions, erasures, narratives or forms of (re)producing knowledge.

The body as archive.
The body as territory.

The body was the conceptual framework for challenging the identity-based, individualized and neoliberal narrative surrounding the political subjectivity and social struggles today. By demonstrating the corporeal articulation of race, gender, sexuality and class, this dissertation traced the lines of the mechanism of othering responsible for creating the so-called 'difference', and how the dialectics of "One and Other" have been socially shaping our subjectivities.

Human or non-human.
Subject or Object.
Capable or incapable.
Citizen or non-citizen.

Legal discourse has played an active role in ossifying social hierarchies through the subject of rights, the capable, the owner, the citizen, the human. The right to property was a keystone for the dehumanization, commodification, and extermination of the Other in the slavery regime. Additionally, private property also directly germinated the institutionalization of white male as the one entitled to own and accumulate property, and therefore to have an economic and political monologue in modern society. Not surprisingly, women dispossessed of their territories and bodies have been fetishized as objects of desire, as properties, as possessions, as voiceless.

The transition of the legal discourse from modern to contemporary times updated the dialectics of masters and slaves (human and non-human) to citizens and non-citizens. Colonial legacies were translated by the names of 'inequality', 'difference', and 'meritocracy', all sedimented within the egalitarian discourse of constitutional democracy. From colonial dispossession to feminization of poverty. Emancipation was, in this way, reduced to economic development. Despite its symbolic importance, the politics of rights

present a very narrow tool for transformation. The dialectics of equality and difference is transplanted into the form of inclusion and exclusion.

From the bottom, women engaged in grassroots movements have been articulating for survival. By perceiving survival as a collective struggle, they have been territorializing the notion of "urban quilombo".[730] Facing the individualization of violence, and the loneliness and exhaustion of the daily struggle to exist, they have been articulating other forms of coexistence and creating new territories of decolonial resistance in the peripheries and favelas of Brazil. By decolonial resistance, I mean that their struggle is not only to physically survive but also to contaminate and dismantle the neocolonial mechanisms of extermination.

Drawing on this terrain in dispute, this dissertation traced cartographies of survival based on the experiences, on the oral-history, on the body-archive of peripheric women in Brazil. The movements *within* and *below* the politics of rights; the redefinition of working-class, reproductive labor, and strike; the politicization of aesthetics; the articulation of resistance and the organization of movements; the collectivization of economies *below* the colonial logic of exploitation, accumulation and competition; the reconceptualization of feminicide as a political issue; the transformation of legal tools within a feminist approach to advocacy based on *careful listening*; the dispute of institutional politics *from within*; the act of *occupying* politics through the construction of a *new political aesthetics* that re-appropriates dispossessed territories, narratives, memories, bodies, and in which politics takes place in a non-masculinized and non-violent form.

By zooming out from the micro to the macro, the individual to the collective, the family to the nation, these cartographies mapped the colonial formation of ontologies, the social organization in form of family, the nationalization of the state, the current collapse of the neocolonial structures, the dispute of democracy, and the movements to reimagine the very meaning of community. Not only the doors were opened, but the curtains and the windows, in an attempt for this house to be not only inhabited but reinvented.

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[730] Nascimento, 'Kilombo e Memória Comunitária: Um Estudo De Caso', at 125. Ratts, *Eu Sou Atlântica: Sobre a Trajetória De Vida De Beatriz Nascimento* at 53.

Appendix A

Table of Abbreviation

Assistance Centers	Assistance Centers for Women in Situation of Violence
Belém do Pará Convention or CPPEVW	Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CEDAW Committee	Committee on the Elimination of Discrimination against Women
CERD	Committee on the Elimination of Racial Discrimination
CNDM	Brazilian National Council for Women's Rights or "*Conselho Nacional dos Direitos das Mulheres*"
CIM	Inter-American Commission of Women
Convention 169	Convention on Indigenous and Tribal Peoples' Rights
CNJ	Brazilian National Council of Justice
CPMI	Brazilian Joint Parliamentary Committee of Inquiry, "*Comissão Parlamentar Mista de Inquérito*"
CSW	Commission on the Status of Women
DEAM	Women's Police Station or "Delegacia Especializada em Atendimento à Mulher"
DEVAW	Declaration on the Elimination of Violence against Women
ECHR	European Court of Human Rights
ECOSOC	Economic and Social Council

FLACSO	Latin American Social Sciences Institute
FLS	Nairobi Forward-looking Strategies for the Advancement of Women
GGB	Grupo Gay da Bahia
HIV	Human Immunodeficiency Vírus or AIDS
HR	Human Rights
LGBT, LGBTI, LGBTI+, LGBTQIA+	Lesbian, Gay, Bisexual, *Travesti*, Transgender, Transexual, Intersex, non-binary Queer or Questioning people, and plus (ally, pansexual, etc.)
IACHR	Inter-American Commission on Human Rights
IACtHR	Inter-American Court of Human Rights
IAHRS	Inter-American Human Rights System
IBGE	Brazilian Institute of Geography and Statistics
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICJ	International Court of Justice
IHGB	Brazilian Institute of History and Geography
IPU	Inter-Parliamentary Union
Maputo Protocol	Protocol on the Rights of Women in Africa
NGO	Non-Governmental Organization
n.	Number
NUAM	Center for the Attendance of Women or "*Núcleo de Atendimento à Mulher*"
OAS	Organization of American States

par.	Paragraph
PNAD	Brazilian National Household Sample Survey
SIM	Brazilian National Information System on Mortality
SINAN	Brazilian Information System of Notification and Appeals
SINESP/MJ	Brazilian Police Occurrences of Violent Acts against Women from the Ministry of Justice
SPM/PR	Brazilian Secretariat for Women's Policies
TGEU	Transgender Europe
Trans*	Transgender and *travesti* people
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNOHC	United Nations Office of the High Commissioner
UNODC	United Nations Office on Drugs and Crime

Appendix B

Mapping of Feminicide in Brazil (2019)[731]

Timeframe: 1 January 2019 to 21 February 2019

Sources: Brazilian online newspapers (via Google Alert)

Words of Mapping: "murder of woman"; "feminicide"; "femicide"; LBT+ murders (lesbian, bisexual, transgender and *travesti* women)

Total of feminicide cases: 302

Table Abbreviations

Day: Day of the crime

Name: Initials of the name of the person who suffered feminicide

Local: City/region where the crime was committed

Form: How the feminicide was committed?

> **p**: puncture weapon
> **fa**: firearm
> **a**: aggression
> **c**: intentionally run over with the car
> **o**: punches with object
> **d**: drowning
> **b**: bottleneck
> **dm**: dismemberment of the body
> **f**: fire
> **t**: torture
> **r**: rape
> **o**: other
> **-**: the newspaper does not mention

CA: Was the crime **c**onsumed (C) or **a**ttemped (A)?

P: What was the relationship between the **p**erpetrator man and the woman?

> **p**: partner
> **ep**: ex-partner
> **s**: son

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[731] A similar mapping was made by the researcher and lawyer Jefferson Nascimento with the support of *Transmissão Direitos Humanos*, encompassing a longer timeframe (January-April), different features of analysis, and the location of the feminicides within the territorial cartography of Brazil. Cf. <https://www.google.com/maps/d/u/0/viewer?ll=-17.262979221493033%2C-43.62643969999999&z=4&mid=1DgmOiB6TkBrxXMyaG_bhmiXY_cxHg6kc>. (Accessed on 8.1.2019)

> **f**: part of the family
> **a**: acquaintance/known person
> **u**: unknown person
> **r**: rejected man/first date/sex refusal
> **o**: other
> **-**: the newspaper does not mention

R: Has the woman already **r**eported gender-based violence or threat of violence to the police or authorities? (**y**es/**n**o)

T: Did a **t**hird person intervene? (**y**es/**n**o)

F: Was the crime reported as **F**eminicide? (**y**es/**n**o)

PS: Did the **p**erpetrator man commit or attempt to commit **s**uicide after the crime? (**y**es/**n**o)

M: Was the crime **m**otivated by jealousy, suspicion of cheating, break-up, or any related reason? (**y**es/**n**o)

C: Was the crime committed in front of the woman's **c**hild? (**y**es/**n**o)

CH: Did the perpetrator man **c**onfess the crime to a family member, confess the crime to the police, or take the battered woman to the **h**ospital? (**y**es/**n**o)

P: Was the woman **p**regnant? (**y**es/**n**o)

W: **W**here was the crime was committed?

> **h**: home or in front of home
> **w**: work
> **b**: bar
> **c**: car
> **o**: other
> **-**: the newspaper does not mention

I: More **i**nformation about the woman?
> **c**: child
> **s**: senior
> **a**: adolescent
> **l**: lesbic
> **t**: transgender/*travesi* woman
> **i**: indigenous
> **o**: other
> **-**: the newspaper does not mention

Day	Name	Local	F	CA	P	R	T	F	PS	M	C	CH	NP	W	I
1.1	I. C. C. S	Rio de Janeiro, RJ	p	C	ep	y	-	n	n	y	y	y	-	h	-
1.1	-	Santa Maria, RS	fa	A	ep	y	-	y	n	y	-	-	-	h	-
1.1	-	Santa Maria, RS	p	A	f	-	y	y	n	y	-	-	-	h	-
1.1	M. R. S	Bezerros, PE	p	C	ep	-	-	y	n	y	-	y	-	h	-
1.1	C. F. I	Matinhos, PR	a	C	p	-	y	n	n	-	-	-	-	h	-
1.1	S. O. S.	Palmas, TO	a	C	p	-	-	n	n	-	-	n	-	h	-
1.1	R. O. S	Casinhas, PE	p	C	r	-	-	y	-	y	-	-	-	b	-
1.1	-	Goiânia, GO	p	C	-	-	-	n	-	-	-	-	-	o	-
1.1	-	Ituiutaba, MG	p	C	p	-	-	n	-	-	-	-	-	h	s
2.1	A.C.C	Taguatinga, DF	a	A	p	y	-	n	-	-	-	-	-	h	-
3.1	-	Uberlândia, MG	c	A	ep	y	y	y	-	-	-	-	-	o	-
3.1	S. O. A. C	Chapecó, Itaguaí, RJ	o	C	p	-		y	-	-	-	y	-	h	-
3.1	-	Castro, PR	p	C	p	-	y	n	-	-	-	-	-	h	-
3.1	-	Blumenau, SC	fa d	A	p	-	-	n	-	-	-	-	-	h	-
3.1	Q. A. S	Pedreira, SP	b	C	-	-	-	y	-	-	-	y	-	o	-
4.1	M.R.S	Rio de Janeiro, RJ	p	C	p	-	y	y	-	-	y	-	-	h	-
4.1	T.B	Rio de Janeiro, RJ	a p	C	ep	y	-	y	-	y	y	-	-	h	-
4.1	M. O. C	Campinas, SP	fa	C	p	-	y	y	-	-	-	y	-	h	c
4.1	V.S.N	Cujubim, RO	-	C	p	-	-	n	y	-	-	y	-	h	-
4.1	N. L. F. S	Nova Lima, MG	fa	C	ep	y	y	y	y	y	-	-	-	h	-
4.1	-	Itapecerica da Serra, SP	p	A	p	n	y	n	-	-	-	-	-	h	-
5.1	E.P .A	Itupeva, SP	p f	C	ep	y	y	y	-	-	-	-	-	h	-
5.1	V. M. S	Gama, DF	p	C	p	-	-	y	-	-	-	y	-	h	-
5.1	M.D.D	Praia Grande, SP	fa	C	p	y	-	n	-	-	n	y	-	h	-
5.1	J. P.N	Garibaldi, RS	p	C	-	-	-	y	-	-	-	-	-	-	-
5.1	M. A.S. S.R	Vírgem da Lapa, MG	fa	C	ep	-	y	n	-	-	-	-	-	h	-
5.1	-	Aparecida de Goiânia, GO	fa	A	ep	-	-	y	-	-	-	-	-	h	-
5.1	-	Itanhaem, SP	a f	A	p	-	-	y	-	-	-	-	-	h	-
5.1	-	São José do Rio Preto, SP	o b	A	p	-	-	y	-	y	-	-	-	h	-
5.1	-	Ribeirão das Neves, MG	p	A	a	-	-	n	-	-	-	-	-	h	c
5.1	M.H.S	Monte Carmelo, MG	p	C	a	-	-	y	-	-	-	-	-	h	-
5.1	-	Petrópolis, RJ	f	C	-	-	y	y	-	-	-	-	-	-	-
6.1	E.S.P	Esperantina, PI	fa	C	ep	-	-	n	y	y	-	-	-	h	-
6.1	R.A.O	Olímpia, SP	o	C	ep	-	-	y	y	y	-	-	-	h	-
6.1	A.D.S	Toledo, PR	p	C	-	-	-	y	-	-	-	-	-	-	-
6.1	K.R.S	Francisco Sá, MG	p	C	ep	-	-	-	-	y	-	-	-	-	-
6.1	R.A.P	Recanto das Emas, DF	a	A	p	-	-	n	-	-	y	-	-	h	-
6.1	-	Iguatemi, MS	a b	A	ep	y	y	y	-	-	-	-	-	h	-
6.1	C.S.G	Itatiba, SP	fa	A	ep	-	-	n	-	-	-	-	-	o	-

7.1	C.M.S	Caiapônia, GO	o	C	a	-	-	y	-	-	-	-	-	h	-
7.1	R.S.P	Governador Mangabeira, BA	b d	C	r	-	-	y	-	-	-	y		o	-
8.1	A.S	Cacoal, RO	p	C	p	n	-	y	-	y	-	y	-	h	-
8.1	K.V.N	Duque de Caxias, RJ	r	C	o	-	-	n	-	-	-	-	-	w	-
8.1	-	Abadia de Goiás, GO	a	A	u	-	y	n	-	-	-	-	-	o	-
8.1	R.T	Florianópolis, SC	fa	A	u	-	-	n	n	n	n	n	n	o	l
8.1	T.S.P	Florianópolis, SC	fa	A	u	-	-	n	n	n	n	n	n	o	l
10.1	G.P.A	Esmeraldas, MG	p	C	ep	-	-	n	-	y	-	-	y	-	-
10.1	B.C.F	Parnamirim, RN	p	C	p	-	y	n	-	-	-	y	-	h	-
10.1	M.C.O	Barreirinhas, MA	b	C	ep	-	-	y	-	-	-	-	-		-
10.1	M.S.P	Formiga, MG	fa	C	ep	-	-	y	y	-	y	-	-	o	-
10.1	filha de M.S.P	Formiga, MG	fa	A	o	-	-	y	y	-	-	-	-	o	-
10.1	-	Chapecó, SC	p	A	p	-	-	y	-	y	-	y	-	h	-
10.1	E.G.T	Angra dos Reis, RJ	o	A	ep	-	-	y	-	y	-	-	-		-
11.1	R.B.A	São Luís do Quitunde, AL	p	C	p	-	-	y	y	y	-	-	-	h	-
11.1	M.A.R	Castro, PR	fa	C	ep	y	-	y	-	-	-	-	-	o	-
11.1	Z.A.L	Campos dos Goytacazes, RJ	-	C	ep	-	-	y	-	-	y	-	-	h	-
11.1	-	São Luís, MA	fap	C	-	-	-	n	-	-	-	-	-	o	-
11.1	S.T.P	Campo Grande, MS	p	C	p	-	-	y	-	-	-	-	-	h	-
11.1	C.M.C.S	Teresina, PI	a	A	ep	y	y	y	-	-	-	-	-	-	-
12.1	R.S.A	Itabela, BA	p	C	p	-	y	y	-	-	-	-	-	h	-
12.1	M.L.J.S	Caruaru, PE	fa	C	r	-	-	n	-	-	-	-	-	w	-
12.1	J.V.S	Viana, ES	c	C	p	-	-	n	-	-	-	-	-	o	-
12.1	-	Balneário Camboriú, SC	fa	C	-	-	-	n	y	-	-	-	-	h	-
12.1	-	Palmeira dos Índios, AL	a o	C	-	-	-	n	-	-	-	-	-	h	-
12.1	T.L.S	Formosa do Oeste, PR	a	C	-	-	-	n	-	-	-	-	-	h	-
12.1	L.S.S	Buens Aires, PE	p	C	ep	y	-	y	-	-	n	-	-	h	-
12.1	E.B.S	Apuarema, BA	p	C	ep	-	-	n	-	-	-	-	-	b	-
12.1	F.L.S	Bom Jesus, PB	fa	A	r	-	-		y	y		-	-		-
13.1	-	Gama, DF	a	A	p	-	-	n	-	-	-	-	-	h	-
13.1	-	Manaus, AM	ab	A	p	-	y	-	-	-	-	-	-	h	-
14.1	D.E.A	Fazenda Rio Grande, PR	p	C	ep	-	y	y	-	y	y	y	-	h	-
14.1	S.F.A	Cascavel, SC	a	C	p	-	-	y	-	-	-	y	-	h	-
14.1	Y.G.R	Santo Amaro, BA	b	C	r	-	-	y	-	y	-	y	-	h	-
14.1	-	Terra Rica, PR	fa	C	r	-	-	n	-	-	-	-	-	o	-
14.1	-	Cravinhos, SP	c	A	ep	-	-	y	-	y	-	y	-	o	-
15.1	M.P.S	Mogi das Cruzes, SP	fa	C	f	-	-	y	-	-	-	-	-	o	-
15.1	L.G.S	Maracanaú, CE	fa	C	ep	-	-	n	y	-	-	-	-	w	-

15.1	M.R.S	Recife, PE	p	C	p	-	y	y	y	y	y	-	-	h	-
15.1	Y.M.C	Paulista, PE	o	C	-	-	-	n	-	-	-	-	-	o	-
16.1	S.S.S	Salvador, BA	fa	C	ep	y	-	y	-	y	-	-	-	w	-
16.1	-	Rio de Janeiro, RJ	fa	A	p	-	-	n	y	-	-	-	-	h	-
16.1	-	Taguatinga, DF	p	A	a	-	-	y	-	-	-	-	-	-	-
16.1	-	Mimoso do Sul, ES	o	A	ep	y	-	y	-	-	-	-	-	h	-
17.1	-	Porto Alegre, RS	fa	C	-	-	y	y	-	-	-	-	-	o	c
17.1	A.R	Juazeiro, BA	p	C	r	-	-	y	-	y	-	n	-	-	-
17.1	R.M.S	Castanheira, MT	fa	C	a	-	-	y	-	-	-	-	-	o	-
17.1	-	Sorocaba, SP	a	A	p	n	-	y	-	-	-	-	y	h	-
17.1	A.F.T.M	Nicolau Vergueiro, RS	fa	A	ep	-	-	y	y	-	-	-	-	-	-
17.1	-	Arapuã, PR	p	A	ep	-	y	y	-	-	-	-	-	h	-
18.1	J.L.Y	São José do Rio Preto, SP	-	C	ep	-	-	y	-	-	-	-	-	h	-
18.1	G.L	Primavera do Leste, MT	p	C	p	-	-	y	-	y	-	-	-	h	-
18.1	M.G.L	Carangola, MG	p	C	ep	-	y	n	-	-	y	y	-	h	-
18.1	D.M	São Fernando, RN	fa	C	p	-	-	n	-	-	-	y	-	h	-
18.1	-	São José do Rio Preto, SP	p	A	p	-	y	y	-	-	y	y	-	h	-
19.1	A.M.L	Joinville, SC	p	C	ep	-	y	y	-	-	-	-	-	h	-
19.1	A.C.C	Poloni, SP	p	C	p	-	-	y	-	y	-	y	-	-	-
19.1	M.F.L.M	Ourinhos, SP	b	C	p	-	-	y	-	-	-	-	-	y	-
19.1	J.M.L.M	Araçatuba, SP	b	C	-	y	y	n	-	-	-	y	-	h	a
19.1	-	Recanto das Emas, DF	p	A	p	-	-	y	-	-	-	-	-	h	-
19.1	-	Sinp, MT	p	A	p	-	-	-	-	-	-	-	-	h	-
19.1	-	Jampruca, MG	p f	A	ep	-	y	y	y	y	y	-	-	h	-
20.1	N.R	Vale do Itajaí, SC	o p dm	C	p	-	-	y	-	-	-	y	-	h	-
20.1	-	São Sebastião da Vitória, MG	p	A	p	-	-	y	-	-	-	-	-	h	-
20.1	V.C.F	Aparecida de Goiânia, GO	-	C	a	y	-	n	-	y	-	y	-	w	l
20.1	K.	Campinas, SP	a p	C	o	-	-	n	-	-	y	-	-	-	t
20.1	R.A.D	Forquilhinha, SC	b	C	p	-	-	y	-	y	-	y	-	c	-
20.1	C.S.S	Imperatriz, MA	a	C	u	-	-	n	-	-	-	-	-	-	-
20.1	A.S	Salvador, BA	a	C	f	-	-	n	-	-	-	-	-	h	c
20.1	L.C.S	Guatapará, SP	fa	C	f	-	-	n	-	-	-	-	-	h	a
20.1	L.B.A	Anápolis, GO	p	A	p	-	-	y	-	-	-	-	-	-	-
20.1		Campo Grande, MS	p	A	p	y	y	y	-	-	-	-	-	h	-
20.1	I.C.P.S	Campo Maior, PI	fa	A	p	-	-	y	-	-	-	-	-	-	-
20.1	-	Bauru, SP	p	A	p	-	-	n	-	-	-	-	-	h	-
20.1	-	Taquaritinga do Norte, PE	fa	A	p	-	-	y	-	-	-	-	-	h	-
20.1	-	Belo Horizonte, MG	p a	A	p	y	y	y	-	-	-	y	-	h	-

21.1	M.V.S.C	Curralinho, PA	fa	C	ep	-	-	y	-	y	-	-	-	o	-
21.1	P.S	Sertânia, PE	p	C	p	-	-	n	y	-	-	-	-	h	-
21.1	T.F.A	Fortaleza, CE	fa	C	p	-	-	n	-	-	-	-	-	h	-
21.1		Ijuí, RS	o	A	ep	-	-	y	-	-	-	-	-	o	-
21.1	E.M.S	Carpina, PE	fa	A	p	-	-	y	-	-	-	-	-	-	-
22.1	F.B.S	São Paulo, SP	b	C	p	-	-		-	-	-	-	-	h	-
22.1	S.S.L.M	Jacaré dos Homens, AL	p	C	p	-	-	y	y	y	-	-	-	h	-
22.1	E.G.P	Cabo Frio, RJ	a	C	p	-	-	y	-	-	-	-	-	o	-
22.1	N.A.S	Samambaia, DF	p	A	p	y	-	y	-	-	-	-	-	h	-
22.1	M.C.S	Viçosa, AL	fa	A	p	-	-	n	y	y	y	-	-	h	-
22.1	L.R.V	Ibaté, SP	p	C	p	-	-	y	y	-	-		y		-
22.1		Campo Grande, MS	fa	A	r	-	-	n	n	-	-	n	-	o	-
22.1	-	Samambaia, DF	p	A	ep	y	-	y	-	-	-	y	-	h	-
23.1	R.S	São Raimundo Nonato, PI	p	C	p	-	-	y	-	y	-	n	-	h	-
23.1	M.J.X	Itapororoca, PB	p	C	p	-	-	n	-	-	-	-	-	o	-
23.1	L.R.V	Ibaté, SP	p	C	p	-	-	y	-	y	-	-	y	h	-
23.1	-	Cabo Frio, RJ	fa p	A	ep	-	-	y	y	y	-	-	-	w	-
23.1	-	Brusque, SC	p	A	-	-	y	y	-	-	-	-	-	h	-
23.1	K.N	Teresina, PI	fa	A	ep	-	-	y	-	y	-	-	-	h	-
23.1	G.P.S	Teresina, PI	faa	A	-	-	y	y	-	-	-	-	-	h	-
24.1	R.S.C	São Paulo, SP	p	C	p	-	-	y	-	-	y	y	-	h	-
24.1	D.E.F.V	Guaçuí, PR	p	C	u	-	-	-	-	-	-	-	-	-	-
24.1	-	Cabo Frio, RJ	p a	A	-	-	-	-	-	-	-	-	-	-	-
24.1	N.R.S	Cascavel, PR	p	A	p	-	-	-	-	-	-	-	-	-	-
24.1	M.A	São Caetano, PE	p	C	f	-	-	-	-	-	-	-	-	-	-
24.1	E.P	Blumenau, SC	fa	C	p	-	-	-	-	-	-	-	-	-	a
24.1	-	Boa Vista, RR	b	A	ep	-	-	-	-	-	-	-	-	-	-
24.1	M.J.X	Itapororoca, PB	p	C	p	-	-	-	-	-	-	-	-	-	-
25.1	M.C.F.S	Olinda, PE	fa	C	-	-	-	-	-	-	-	-	-	-	-
25.1	M.A.C	Campo Grande, MS	-	C	-	-	-	-	-	-	-	-	-	-	-
25.1	R.D.M	Eldorado, MS	c	C	-	-	-	-	-	-	-	-	-	-	-
25.1	-	José de Freitas, PI	fa	A	-	-	-	-	-	-	-	-	-	-	-
25.1	-	Corumbá, MS	a	A	-	-	-	-	-	-	y	-	-	-	-
25.1	-	Manaus, AM	a	A	-	-	-	-	-	-	-	-	-	-	-
25.1	R.S	Nova Mutum, MT	a	C	-	-	-	-	-	-	-	-	-	-	-
26.1	J.A.O	Caruaru, PE	p	C	p	-	-	-	-	-	-	-	-	-	-
26.1		Maceió, AL	fa	C	-	-	-	-	-	-	-	-	-	b	-
26.1	L.M.C.A	Yesplício Mendes, PI	b	C	f	-	-	-	-	-	-	-	-	-	a
26.1	-	Perdigão, MG	f	C	-	-	-	y	-	-	-	-	-	-	-
26.1	J.G.C	Duque de Caxias, RJ	p	C	f	-	-	-	-	-	-	-	-	-	-
27.1	M.C.B.S	Guarapari, ES	fa	C	ep	-	y	-	-	-	y	-	-	-	-
27.1	N.G.S	Jundiaí, SP	a	C	p	-	-	-	-	-	-	-	-	-	-
27.1	D.R	Caxias do Sul, RS	o	C	-	-	-	-	-	-	-	-	-	o	-

27.1	E.C.M.	São José do Rio Preto, SP	a p	A	-	-	-	-	-	-	-	-	-	-	-
28.1	D.M.M.S	Brasília, DF	fa	C	p	-	-	-	-	-	y	-	-	-	s
28.1	C.O.C	Sarapuí, SP	c p	C	ep	-	-	-	y	-	-	-	-	-	-
28.1	R.S.O	Bandeirantes, TO	p	C	p	-	-	-	-	y	-	-	-	-	-
28.1	-	Boa Vista, RR	a	C	-	-	-	-	-	-	-	-	-	-	-
28.1	-	Boa Vista, RR	fa	C	-	-	-	-	-	-	-	-	-	-	-
29.1	P.F.S	Patos de Minas, MG	p	A	ep	-	-	-	-	-	-	-	-	-	-
29.1	-	Guarulhos, SP	p	A	p	-	-	-	-	-	-	-	-	-	-
29.1	E.P.A	Ceilândia, DF	a	A	ep	-	-	-	-	-	-	-	-	-	-
29.1	G.	Itapecerica da Serra, SP	a	C	-	-	-	-	-	-	-	-	-	-	-
29.1	-	João Pessoa, PB	a	A	-	-	-	-	-	-	-	-	-	-	-
29.1	-	Campina Grande, PB	a	A	s	-	-	-	-	-	-	-	-	-	-
28.1	P.F.B.F	Planaltina, DF	fa a	C	-	-	-	y	-	-	-	-	-	-	-
29.1	L.E.S.P	Mogi das Cruzes, SP	o	C	-	-	-	-	-	-	-	-	-	-	-
29.1	R.S.S	Nova Viçosa, BA	p b fat	C	-	-	-	-	-	-	-	-	-	-	o
29.1	-	Paulistana, PI	p	A	ep	-	-	-	-	-	-	-	-	-	-
30.1	V.M	Brasília, DF	p f	C	-	-	-	-	-	-	-	-	-	-	-
30.1	S.L.N	Ibirataia, BA	p	C	-	-	-	-	-	-	-	-	-	b	-
30.1	E.P.S	Comodoro, MT	p	C	p	-	-	-	-	-	-	-	-	b	-
30.1	L.B.F	Campina Grande, PB	p	C	ep	-	-	-	-	-	-	-	-	-	-
30.1	G.S.S	Goiânia, GO	a	C	-	-	-	-	-	-	-	-	-	-	-
31.1	M.K	Estrela, RS	p	A	-	-	-	-	-	-	-	-	-	-	-
31.1	-	Itaperuna, RJ	p	A	p	-	-	-	-	-	-	-	-	-	-
31.1	-	Itaperuna, RJ	p	A	s	-	-	-	-	-	-	-	-	-	-
31.1	-	Manacapuru, AM	p	A	p	-	y	y	-	-	-	-	-	h	-
1.2	-	Teresina, PI	c	A	f	-	-	y	-	-	-	-	-	o	-
1.2	V.P.S	Cesário Lange, SP	p	C	p	-	-	y	y	-	-	-	-	h	-
1.2	Y.C.S	Lucas do Rio Verde, MT	p	C	-	-	y	n	-	-	-	-	-	-	-
1.2	V.F.L	Porto Velho, RO	fa	C	u	-	-	n	-	-	-	-	-	o	-
1.2	-	Dourados, MS	a	A	p	-	-	n	-	-	y	-	-	h	-
1.2	-	São Manuel, SP	a	A	ep	-	-	y	-	y	-	-	-	h	-
1.2	-	Petrolina, PE	p	A	p	-	-	y	-	-	-	-	-	-	-
1.2	S.W	Turvo, PR	a	C	u	-	-	n	-	-	-	-	-	-	-
2.2	P.P	São Caetano do Sul, SP	p	C	p	-	-	y	-	-	-	y	-	h	-
2.2	M.G.L	Castelo do Piauí, PI	o	C	p	-	y	-	-	-	-	-	-	h	-
2.2	G.S.A	Caruaru, PE	p	A	p	-	-	y	-	-	-	n	-	-	-
2.2	-	Alfenas, MG	p	A	p	-	y	y	-	-	-	-	-	-	-
2.2	M.G.S	Mundo Novo, GO	p	C	p	-	y	y	-	-	-	n	-	h	o

2.2	-	Barra de São Francisco, ES	b	A	p	-	-	y	-	-	-	-	-	o	-
2.2	C.R.S	Araçatuba, SP	p	A	ep	-	y	y	-	-	y	-	-	h	-
2.2	A.	Betim, MG	p	C	ep	-	-	y	-	y	-	-	-	-	-
3.2	S.C	Guareí, SP	c	A	ep	-	-	y	-	-	-	-	-	o	-
3.2	L.G.S	Rio de Janeiro, RJ	fa	C	ep	-	-	y	-	y	y	-	-	h	-
3.2	L.S.J	Umbaúba, SE	p	C	p	-	-	y	-	-	-	n	-	o	-
3.2	L.S.G	Mauá, SP	p	C	p	-	-	y	-	-	-	-	-	h	o
3.2	A.C.S	Balsas, MA	p	C	ep	y	-	y	y	-	-	-	-	h	-
3.2	-	Oswaldo Cruz, SP	p	A	p	-	-	y	-	-	-	-	-	h	-
3.2	E.S.M	Marialva, PR	p	C	ep	-	-	n	-	y	-	y	y	-	-
3.2	M.G.N	Salvador, BA	a	A	ep	-	-	n	-	-	-	y	-	-	-
3.2	-	Heitoraí, GO	b	A	-	-	y	y	-	-	-	n	-	h	-
4.2	P.J.M	Pedro do Rosário, MA	fa	C	p	-	-	y	-	-	-	-	-	-	-
4.2	E.A.O.S	Brasília, DF	fa	A	ep	y	-	-	-	-	-	n	-	c	-
4.2	M.E.A.L	São Francisco, MG	p	C	ep	-	-	y	-	y	-	y	-	b	-
4.2	S.B.A	Sítio do Quinto, BA	fa	C	p	-	-	y	-	-	-	-	-	h	-
4.2	V.M.S	Vereda, BA	b	C	r	-	-	y	-	y	-	y	-	o	a
4.2	-	Três de Maio, RS	fa	C	p	-	y	y	-	-	-	-	-	h	-
4.2	A.C.E	Caldas Nvas, GO	fa	C	r	-	-	y	-	y	-	-	-	o	-
5.2	D.S.C.M	Foz do Iguaçú, PR	fa	C	p	-	-	y	-	-	-	-	-	-	-
5.2	J.	Buriti, MA	p	A	ep	-	-	y	-	-	-	-	-	h	-
5.2	-	Itaara, RS	fa	A	-	-	-	y	-	-	-	n	-	h	s
5.2	N.P.L	Atílio Vivacqua, ES	p	C	p	y	-	y	-	-	y	n	-	h	-
5.2	Y.P.F	Recife, PE	a	C	-	-	-	n	-	-	-	-	-	h	-
5.2	A.F.O.B	São José do Ribamar, MA	a	C	-	-	-	n	-	-	-	-	-	o	-
6.2	-	Londrina, PR	c	A	ep	-	y	y	-	y	-	n	-	o	-
6.2	-	Santa Cruz da Baixa Verde, PE	p	A	p	-	-	y	-	-	-	-	-	b	-
6.2	I.C.S	Manaus, AM	fa	C	p	-	y	y	-	-	-	y	-	o	-
6.2	V.M.S	Rondonópolis, MT	b a	C	-	-	-	y	-	-	-	y	-	h	-
7.2	S.W	Campo Belo do Sul, SC	p	C	ep	y	y	y	-	y	-	n	-	h	-
8.2	-	São Paulo, SP	p	A	ep	-	-	-	-	-	-	-	-	o	-
8.2	A.L.R	Betânia, PI	a	C	p	-	-	-	y	-	-	-	-	-	-
9.2	H.P.L	Gurupi, TO	b	C	p	-	-	y	-	-	-	-	-	h	s
9.2	-	Jeriquara, SP	p	C	p	-	y	y	-	-	-	y	-	h	s
9.2	-	Água Clara, MS	a	A	p	-	-	y	-	y	-	y	-	h	-
10.2	-	Cascavel, PR	b	A	f	-	-	y	-	-	-	-	-	h	a
10.2	-	Bauru, SP	a	A	ep	-	y	y	-	y	-	y	-	h	-
10.2	J.F.L	Belo Horizonte, MG	p	C	p	-	-	y	-	-	-	y	-	-	-
10.2	-	Bauru, SP	p	A	ep	-	-	-	-	y	-	y	-	h	-
10.2	T.J	Capim Grosso, Jacobina, BA	p	C	ep	-	-	-	-	-	-	-	-	-	-
10.2	-	Cascavel, PR	p b	A	f	-	-	-	-	-	-	-	-	-	-

10.2	R.P	Terenos, MS	p	C	ep	-	-	n	-	-	-	-	-	-	-
10.2	G.A.S	Santa Cruz do Capibaribe, PE	p	C	-	-	y	-	-	-	-	-	y	-	-
10.2	C.S.B	Manaus, AM	fa	C	-	-	-	n	-	-	y	-	-	o	-
10.2	J.M.B	Parauapebas, PA	-	C	-	-	-	n	-	-	-	-	y	o	-
10.2	-	Planaltina, GO	fa c	A	r	-	-	y	-	y	-	n	-	o	-
11.2	T.A.A.S	Centro de Tupã, SP	fa	C	ep	-	-	y	-	y	-	y	-	h	-
11.2	C.F.S	Vale do Rio Doce, MG	fa	C	p	-	-	y	-	-	-	y	-	-	-
11.2	C.R	Canela, RS	fa	A	ep	y	-	y	y	-	y	-	-	h	-
11.2	-	Nova Iguaçu, RJ	fa	C	-	-	-	n	-	-	-	-	-	h	t
11.2	E.M.P	Viana, ES	p	C	-	-	y	n	-	-	-	-	-	h	s
12.2	B.K.P	Porto Velho, RO	p	A	ep	-	-	y	-	y	y	n	-	h	-
12.2	M.B.B	São Carlos, SP	-	C	p	-	y	-	-	y	-	y	-	h	-
12.2	L.C.E.B	São Carlos, SP	-	C	f	-	y	-	-	y	-	y	-	h	-
12.2	E.S	Santa Maria, RS	fa	C	-	-	y	n	-	-	y	-	-	h	-
12.2	J.S.A	Maceió, AL	rt	C	o	-	-	n	-	-	-	-	-	o	-
12.2	J.L.B	Duque de Caxias, RJ	fa	C	-	-	-	y	-	-	-	-	-	w	-
12.2	M.C.S.P	Duque de Caxias, RJ	fa	C	-	-	-	y	-	-	-	-	-	o	-
13.2	-	Blumenau, SC	c	C	p	-	-	y	-	-	-	-	-	o	-
13.2	S.R.T	Içara, SC	t	C	p	-	-	y	-	-	-	n	-	-	-
13.2	S.S.F	Boa Vista, RR	p	C	ep	-	-	-	-	y	-	-	-	-	-
14.2	-	Recife, PE	fa	A	ep	-	-	y	-	y	-	-	-	h	-
14.2	-	Boa Vista, RR	fa	C	p	-	-	-	y	y	-	-	-	-	-
14.2	-	Salvador, BA	fa	C	-	-	-	n	-	-	-	-	-	o	-
14.2	-	Salvador, BA	fa	C	-	-	-	n	-	-	-	-	-	o	-
14.2	B.Q.P	Jequié, BA	fa	C	-	-	-	n	-	-	-	-	-	h	-
14.2	L.V.S	Trancoso, BA	-	C	-	-	-	n	-	-	-	-	-	-	-
14.2	J.S.R	Santa Cruz Cabrália, BA	p	C	-	-	-	n	-	-	-	-	-	-	-
15.2	-	Xanxerê, SC	p	A	p	-	-	y	-	-	-	-	y	-	-
15.2	-	Araújos, MG	p	A	p	-	-	y	-	-	-	-	y	-	-
15.2	N.X.J	Matozinhos, MG	fp	C	p	-	-	n	-	-	y	n	-	h	-
15.2	J.Z.R	Alto Vale do Itajaí, SC	fa	C	ep	-	-	y	y	-	-	-	-	-	-
15.2	-	Aparecida, MG	p	A	p	y	-	y	-	y	-	-	-	w	-
15.2	L.A.S	Matelândia, PR	p	C	-	-	-	y	-	-	-	-	-	o	-
15.2	D.S.J	Serrinha, BA	fa	C	-	-	-	n	-	-	-	-	-	h	-
15.2	V.	Lagoa de Itaenga, PE	p	C	-	-	-	n	-	-	-	-	-	o	-
16.2	N.S.S	Cocal, PI	p	C	ep	-	-	y	-	y	-	-	-	-	-
16.2	L.M.S	Bonito, PE	p	A	ep	-	-	y	-	y	-	-	-	o	-
16.2	-	Oiapoque, AP	p	A	p	-	-	y	-	-	-	-	y	h	-
16.2	C.	Ingazeira, PE	fa	C	-	-	-	y	-	-	-	-	-	h	-
16.2	S.M.	Sorocaba, SP	p	C	u	-	-	n	-	-	-	-	-	b	t
17.2	-	Guaíba, RS	p	A	ep	y	-	y	-	-	-	-	-	-	-

17.2	E.F.M	Corbélia, PR	fa	C	ep	-	-	-	-	y	-	-	-	-	s
17.2	-	Castro, PR	fa	A	p	-	-	y	-	y	-	-	-	-	s
17.2	M.C.C.S	São Luís, MA	p	C	p	-	-	y	y	-	-	-	-	h	-
17.2	E.P.C	Rio de Janeiro, RJ	a	A	r	-	y	y	-	-	-	-	-	h	-
17.2	-	Porto Velho, RO	fa	A	p	-	y	-	-	y	-	-	-	h	-
17.2	E.L.O	Barrocas, BA	o	C	-	-	-	n	-	-	-	-	-	h	-
18.2	L.O.C	Itabaiana, SE	p	A	ep	-	-	y	-	-	-	-	-	w	-
18.2	-	Xaxim, SC	p	A	ep	-	-	y	-	-	-	-	-	h	-
18.2	-	Ouro Verde do Oeste, PR	p	C	p	-	-	-	-	-	-	-	-	-	-
18.2	J.S.S	Regeneração, Teresina, PI	o	C	p	-	y	y	y	-	-	-	-	h	-
18.2	S.S.P	Flores da Cunha, RS	-	C	-	-	-	n	-	-	-	-	-	o	-
18.2	M.C.S.C	Resende, RJ	fa	C	o	-	-	n	-	-	-	-	-	o	-
19.2	C.T.N	Salvador, BA	fa	C	-	-	-	n	-	-	-	-	-	-	-
19.2	E.N.T	Volta Redonda, RJ	fa	C	u	-	-	n	-	-	-	-	-	b	-
20.2	M.	Promissão, SP	p	A	p	y	y	y	-	-	-	-	-	h	-
20.2	E.S	Juazeiro, BA	fa	C	u	-	-	n	-	-	-	-	-	h	-
21.2	-	Campo Grande, MS	-	C	ep	-	y	y	-	-	-	n	-	o	i
21.2	A.G.	Aldeia, Amambai. MS	p	C	ep	y	y	y	-	-	y	-	-	o	i
21.2	D.P.L.S	Montes Claros, MG	fa	C	p	-	-	n	-	-	-	-	y	h	-
21.2	D.N	São Paulo, SP	b	A	p	-	-	y	-	-	-	y	-	h	-
21.2	J.G.C	Duque de Caixias, RJ	p	C	f	-	-	y	-	-	-	y	-	h	-
21.2	-	Florianópolis, SC	fa	C	-	-	-	y	-	-	-	-	-	-	-
22.2	R.A.F	Rio de Janeiro, RJ	a	A	p	-	y	y	-	y	-	-	-	-	-

(The sources are listed at the end of the bibliography)

Statement of Independence

"I hereby declare that I have written the present thesis independently, without assistance from external parties and without use of other resources than those indicated. The ideas taken directly or indirectly from external sources (including electronic sources) are duly acknowledged in the text. The material, either in full or in part, has not been previously submitted for grading at this or any other academic institution".

Berlin, August 2020
Juliana Moreira Streva

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