

Online gender-based violence: the digital dimension of violence against women – a comparative study (Brazil and Italy)*

Violência on-line de gênero: a dimensão digital da violência contra a mulher - um estudo comparado (Brasil e Itália)

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Margareth Vetis Zaganelli**

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Abstract: The object of this study is violence against women practiced in the digital environment, a current and recurrent phenomenon and a continuation of offline gender violence. In a contemporary scenario, marked by the impact of technologies on legal notions and processes, as well as on the phenomena of an increasingly digital reality, violence against women also manifests itself online, through attacks, verbal abuse on digital platforms. If, on the one hand, the web seems to offer spaces of freedom, on the other hand, online violence has new and unprecedented characteristics, in relation to which current legislation does not yet offer adequate responses. The internet opens up new spaces, within which the number of forms of domination grows, fueling vulnerabilities, inequalities and violence, and social networks, in particular, form a new habitat capable of allowing new forms of violence. In this sense, the study focuses on the new forms and articulations that violence against women assumes on the web, in order to outline possible coping strategies, from the perspective of the legislation in force in the legal systems of Brazil and Italy.

Keywords: Violence against women. Cyberviolence. Internet. Brazil. Italy.

Resumo: O objeto deste estudo é a violência contra a mulher praticada no ambiente digital, um fenômeno atual e recorrente e uma continuação da violência de gênero *off-line*. Em um cenário contemporâneo, marcado pelo impacto das tecnologias nas noções e nos processos jurídicos, bem como nos fenômenos de uma realidade cada vez mais digital, a violência contra a mulher também se manifesta *on-line*, por meio de ataques, de abusos verbais em plataformas digitais. Se, por um lado, a *web* parece oferecer espaços de liberdade, por outro, a violência *on-line* tem características novas e inéditas, em relação às quais a legislação atual ainda não oferece respostas adequadas. A Internet abre novos espaços, nos quais cresce o número de formas de dominação, alimentando vulnerabilidades, desigualdades e violências, e as redes sociais, em particular, formam um novo *habitat* capaz de permitir novas formas de violência. Nesse sentido,

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**Doutora em Direito pela Universidade Federal de Minas Gerais (UFMG) com Estágios Pós-doutorais na Università di Milano-Bicocca (UNIMIB) e na Università di Bologna (UNIBO). Professora Titular da Universidade Federal do Espírito Santo (UFES). E-mail: <margareth.zaganelli@ufes.br>. ORCID: 0000-0002-8405-1838.

o estudo enfoca as novas formas e articulações que a violência contra a mulher assume na *web*, a fim de delinear possíveis estratégias de enfrentamento, sob a perspectiva da legislação vigente nos ordenamentos jurídicos do Brasil e da Itália.

Palavras-chave: Violência contra mulheres. Ciberviolência. Internet. Brasil. Itália.

1 Introduction

According to the 1994 Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women, formalized by the Organization of American States (OAS), “violence against women” is any conduct or action based on gender that causes death, physical, sexual or psychological harm or suffering to a woman, whether in the public or private sphere (OAS, 1994).

This type of gender-based violence is known to have various forms of manifestation, many of which occur in the digital environment, given that undeniable technological progress has led to the emergence of new spaces and new possibilities for the perpetration of violent acts against women.

In view of this, this article sets out to investigate, in a comparative study, these new dimensions and occurrences of violence against women, highlighting manifestations such as cyberstalking, cyberharassing, cyberbullying, online hate speech, doxxing, image-based sexual abuse and disclosure of personal data without consent (among others).

In order to fulfill the research purposes, through documentary and bibliographic research and in the light of comparative law, the article has been organized into three sessions with a central content: one dedicated to the analysis of the socio-cultural origins of violence against women, one focused on the forms of violence against women (more precisely, the forms perpetrated on the Internet) and the last on combating these means of violence, with a comparison of data and measures adopted in Brazil and Italy to deal with this serious and highly entrenched problem.

The conclusion reached was that there is a need to improve the legal measures already in place to combat violence against women and to combine these legal provisions with other treatments in a multidisciplinary approach, in addition to promoting cultural change in this regard.

2 Sociocultural origins of violence against women – short considerations

Violence against women, as well known, is present in most societies (WORLD HEALTH ORGANIZATION, 1997).

It is recognized as a human rights violation and a serious public health problem (KRANTZ; GARCIA-MORENO, 2004), which has long been examined and combated.

As a phenomenon that contaminates society (CALLONI; HORNBY, 2014), it stems from the imbalance in power distribution between women and men (CALLONI, 2006), reflecting a tangible expression of inequalities that have been shaped by historical contexts and widely replied (ZAGANELLI; SALARDI, 2020).

Violence against women not only inflicts suffering on victims and their families, but also damages society as a whole, with the rehabilitation of victims representing one of the significant costs borne by communities (TAVASSOLLI *et al*, 2022).

Despite the efforts to comprehend and confront violence against women are long-standing, there are still severe difficulties in tackling it – reason why, considering the complexity associated to this issue, it is necessary to implement more transdisciplinary and intersectoral actions to deal with the problem (SILVA; OLIVEIRA, 2015).

In this sense, considering that law can play a relevant role in solving the issue, as it exercises a performative action on attitudes and behaviors (SALARDI, 2015), it is necessary to adopt – albeit not in isolation – legal measures as a response to this problem.

In view of this, this article focuses on the legal measures used to combat violence against women, highlighting data and measures adopted in Brazil and Italy.

3 Types of violence against women: the increase caused by the internet

There are several types of manifestations of violence against women. Usually, researchers defend the existence of five spheres or domains of violence against women, namely, physical, patrimonial, sexual, moral and psychological (FONSECA; RIBEIRO; LEAL, 2012).

Physical violence involves hurting and damaging the body. Sexual violence, among other types, occurs when the aggressor forces the victim to witness, maintain or participate in an unwanted sexual relationship. Moral violence is any conduct that constitutes slander, defamation or libel. Psychological or emotional violence is characterized by any conduct that results in emotional damage such as lowering self-esteem, coercion, humiliation, impositions, power games, swearing, devaluation, shouting, contempt, disrespect, among others (FONSECA; RIBEIRO; LEAL, 2012).

These five spheres contemplate multiple forms of manifestations – and most of them (except for the physical form) have online ways of expressions.

This is often referred to as digital violence or cyberviolence, all forms of violence made possible by digital technologies, such as messaging apps, social platforms, virtual gaming environments and online forums (MAKSIMOV, 2023).

In this sense, the advancement of IT tools and the spread of social networks on the Internet has made it possible to create criminal offenses that do not require the physical presence of the aggressor, but which aggravate it due to the means of execution or which, at least, maintain the harmful potential of those offenses with a material result (ALMEIDA; ZAGANELLI, 2021).

Abuses and aggressions commonly found on the Internet include cyberbullying, leaking intimate images without consent, crimes against honor, threats, hate speech, fake news, cyber harassment, humiliation and other types (SOUSA, 2011) – but not only.

Online harassment is characterized as the action (intimidating offensive speech) that reproduces misogynistic, sexist, etc. behaviors that incite and promise physical violence through comments in the virtual environment (VALE, 2022). Similarly, there is hate speech or offense, that is, the use of speech to humiliate, diminish, damage the image of the victim (CODING RIGHTS; INTERNET LAB, 2017). Crimes against honor are already well-known criminal types commonly representative of expressions of online gender-based violence. As well as the aforementioned examples, there are many other expressions of the phenomenon.

Most of these abuses have girls and women as victims, as several researchers have already recognized (SOUSA, 2011; SOUSA, SCHEIDWEILER, 2019; NATANSOHN, 2015) – which points to an intrinsic connection between gender and online violence.

This is why it is argued that online gender violence is structured and proliferates in the virtual environment, combining the practice of violent acts against women with the paradigm of male domination, increasing its damage with the support of the users themselves, who legitimize and share content (SOUSA *et al*, 2019).

In other words, violence against women can manifest itself in many environments in which the female population is inserted – and here the ones linked to technological resources stand out, such as virtual environments accessed through the Internet (CALLOU *et al*, 2021).

The referred species of offenses or virtual crimes affect the female public to a greater extent, given the fact that the group is marked by a vulnerability character.

Given this, and the fact that online gender-based violence is recognized as causing psychological and health damage to its victims (HICKS, 2021), several measures are needed to combat the problem, including legal ones.

Even so, since online violence has new and unique characteristics, the current legislation of most countries does not yet offer adequate responses – reason why the paper examines, in the following section, legal coping possibilities to solve or soften the problem.

4 Online gender-based violence coping

Online gender-based violence, as mentioned, is a social phenomenon that does not occur in isolation (SOUSA, et al. 2019).

With the exponential growth and popularization of Internet access, social relations on the web have inaugurated attributes specific to the virtual environment, sometimes being a space for the curtailment of rights and violent acts against vulnerable groups, especially women (VALE, 2022).

These are often actions or behaviors that unfold in the real world, aggravated by the perception of anonymity and impunity often observed on the web (VALE, 2022).

In response to this phenomenon, many countries and legal organizations adopted measures in the law sphere, in order to prevent and combat the damages caused by online gender-based violence.

Thus being, in the following sections, the paper explores the legal actions taken by Brazil, Italy and European Union to soften online violence against women.

4.1 Data and legal measures adopted in Brazil

In Brazil, the episodes of online gender-based violence have grown exponentially. Data released by the NGO SaferNet Brasil's Helpline (2017) reveals that in 2016 alone there were more than 300 reports of sexting (revenge porn), and more than 300 reports of cyberbullying, with women being the majority of the victims (SOUSA *et al*, 2019).

There are also records of virtual rapes (CORREIO BRAZILIENSE, 2017), cyberstalking and many other cases of violence against women in the virtual environment.

The scenario of violence against women on the Internet is recent, both in the world and in Brazil, which is why it is only very recently that a normative path has been paved to tackle this violence (SOUSA *et al*, 2019).

In this sense, the Law No. 13.140/2006 (“Maria da Penha Law”) still plays an important role by creating ‘mechanisms to curb domestic and family violence against women’ (BRAZIL, 2006), establishing central and fundamental normative guidelines to combat gender violence.

More specifically regarding the virtual environment, laws such as 12.737/2012 (also known as “Carolina Dieckmann Law”), 13.642/2018 (“Lola Aronovich Law”) and 14.132/2021 stand out in Brazil.

Law No. 12.737/2012, created after the repercussions of a case involving the exposure of intimate images of the public figure Carolina Dieckmann, provides for the criminal classification of computer offences and inserts the crime of ‘invasion of a computer device’ (among other offences) into the Brazilian Penal Code (BRAZIL, 2012).

Although the law makes no specific mention of tackling online violence against women or the leaking of intimate images, it is a resource that women can use in the event of their digital devices being hacked (SOUSA *et al*, 2019).

Law 13.642/2018, in turn, makes it the responsibility of the Brazilian Federal Police to investigate crimes committed via the World Wide Web that spread misogynistic content, i.e., those that propagate hatred or aversion to women (BRAZIL, 2018). It certainly represents an increase of effort intended to repress an expression of gender-based violence.

In addition, Law 14.132/2021 amended the Brazilian Penal Code to include the type of stalking, by any means (and therefore also by virtual means), including an increase in the penalty for committing the offence in the context of gender-based violence (BRAZIL, 2021).

Certainly, the progress that has been made does not end the need to improve and adapt the legal responses given by the Brazilian state to the new virtual ways of perpetuating violence against women.

However, the scenario represents a step forward in relation to previous situations, and reveals the importance attached by society and the authorities to better dealing with this problem.

4.2 Data and legal measures adopted in Italy

Italy, following the guidelines of the European Union, has paid increasing attention to solving the problem of violence against women in all environments, recognizing it as violence against particularly vulnerable individuals (ZAGANELLI; SALARDI, 2020).

The country, from 2007 to 2013, issued laws to combat female genital mutilation and persecution. In addition, emergency procedures were applied to enact various criminal regulations, including Act No. 119/2013.

Furthermore, Italy was one of the first countries to sign and ratify the Istanbul Convention (“Council of Europe Convention on preventing and combating violence against women and domestic violence”) – which has as one of its objectives ‘to protect women against all forms of violence, and to prevent, prosecute and eliminate violence against women and domestic violence’ (COUNCIL OF EUROPE 2011) –, in 2012 and 2013 respectively.

Another significant legal advance in Italy was the publication of the “Codice Rosso” (Law No. 69/2019), whose main objectives are to combat violence against women, improve the protection of victims and improve the effectiveness of the actions of the security forces (SORRENTINO, 2023).

The Codice Rosso, among other measures, modified the Italian Code of Criminal Procedure to allow rapid and coordinated intervention by security forces and the criminal justice system when dealing with allegations of gender-based violence, and increased penalties for offences such as stalking and sexual violence (SORRENTINO, 2023).

Although the provisions of this and other legislation are not centrally focused on online gender-based violence, they do cover some types of cybercrime against women and generally contribute to combating these forms of online violence.

In the case of the offence of stalking, for example, article 612-bis of the Italian Penal Code provides for an increase in the penalty in cases where the crime is committed by virtual means, using information and communication technologies (cyberstalking) (ITALY, 1930).

Even so, as outlined in the report by the European network of legal experts in gender equality and non-discrimination, national legislation on online violence has gaps and calls for action at European level (ROSSILLI, 2023).

But, at present, the European Union does not have binding legislation dealing specifically with violence against women and domestic violence, although several directives that establish general rules or deal with other forms of violence are also applicable to victims of gender-based violence (ROSSILLI, 2023).

This, however, does not neutralize the fact that legal progress has been made, both in Italy and in the context of the European Union – progress that, in order to be effective, needs to be combined with a change of mentality and attitude on the part of civil society, in which the treatment of girls and women needs to be adjusted in order to eliminate violence against this group and to give them (much) more respect.

5 Conclusion

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Currently, women continue to suffer from the same violence perpetrated in the past, even in a very different cultural, legal and social scenario, with all the constitutionalist advances in modern states and the guarantees of the field of human rights.

What we see in practice is an inconsistency between the guarantees or rights assured to this group and everyday reality, which is still very much marked by violence against girls and women.

In other words, the fact that women are murdered or made victims of other forms of violence represents a failure to apply the rights guaranteed to them.

As has been emphasized throughout the article, the forms of violence against women have been expanded or aggravated with the advance in the use of Information and Communication Technologies and, in particular, the Internet, which, although it brings countless benefits and creates a space of freedom, also creates new possibilities or modalities of gender violence – which can be seen in the emergence of crimes such as cyberstalking, disclosure of intimate images without consent, cyberharassing and other types.

To this end, the paper investigates the legal forms of framing or protecting women against the forms of violence propagated in the virtual environment, focusing on the legal measures adopted by Brazil and Italy

What was observed in Brazil was an initial advance in legislation in the sense of trying to contemplate, predict, punish and prevent the perpetration of online violence against women, even though the laws that currently exist do not yet have the specificity necessary to better deal with the problem.

Similarly, it was noted that in Italy, following the guidelines of the European Union, progress has also been made in combating violence against women online, which is also in need of more specificity and improvement.

However, it was noted that, although legal progress has been made with regard to the problem of online violence against women, there is a much greater need for real social reforms, so that violence against women can not only be theoretically prohibited, but actually eliminated in practice.

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