

Women in Situations of Violation of Privacy: Psychological and Moral Damage in the Context of Gender Violence

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Abstract: This study problematizes and analyzes, in the jurisprudence of the Courts of Justice of Santa Catarina and Rio Grande do Sul, between 2016 and 2021, the psychosocial aspects identified in violence against women and violation of intimacy by the dissemination of images containing nude scenes within the scope of relationships of affection. The research is exploratory and descriptive, with content analysis of selected documents. The documentary research was carried out by combining keywords according to the readings for the theoretical foundation. Three thematic categories were created to allow us to reflect on the context of the facts, the present gender inequality, and the legal attempt to repair the damage caused by psychosocial suffering. The analysis indicated the violation of intimacy as gender violence, given the psychosocial aspects described by the women in the documents at stake.

Keywords: Violation of privacy. Gender violence. Psychosocial aspects.

Mulheres em situações de violação da intimidade: danos psicológicos e morais no âmbito da violência de gênero

Resumo: O presente estudo problematiza e tem como objetivo analisar quais aspectos psicossociais podem ser identificados na violência contra as mulheres, no âmbito das relações de afeto e de violação da intimidade, pela divulgação de imagem com conteúdo de cena de nudez, no período de 2016-2021, em jurisprudência dos Tribunais de Justiça de Santa Catarina e do Rio Grande do Sul. A pesquisa é de natureza exploratória e descritiva, com análise de conteúdo de documentos selecionados. A pesquisa documental foi realizada por meio da combinação de palavras-chave de acordo com as leituras realizadas para a fundamentação teórica. Foram elaboradas três categorias temáticas, as quais possibilitaram refletir sobre o contexto dos fatos, a desigualdade de gênero presente e a tentativa jurídica de reparar o dano causado pelo sofrimento psicossocial. A análise indicou a violação da intimidade como violência de gênero, visto os aspectos psicossociais descritos pelas mulheres nos documentos em questão.

Palavras-chave: Violação da intimidade. Violência de Gênero. Aspectos psicossociais.

Introduction

This study problematizes and analyzes, in the jurisprudence of the Courts of Justice of Santa Catarina and Rio Grande do Sul, between 2016 and 2021, the psychosocial aspects identified in violence against women and violation of intimacy through the dissemination of images containing nude scenes within the scope of relationships of affection. In the legal sphere, Law n. 13.772/2018 (Brasil, 2018) amended Law n. 11.340/2006 (Brasil, 2006), popularly known as Lei Maria da Penha (LMP), and Decree-Law n. 2.848/1940 (Brasil, 1940) of the Penal Code “[...] to acknowledge that the violation of women’s privacy constitutes domestic and family violence and criminalize the unauthorized registration of content with nudity scenes or sexual or libidinous acts of an intimate and private nature” (Brasil, 2018, p. 1) Specifically, the wording of item II – Psychological Violence – of Art. 7 of the LMP included the “violation of privacy” (Brasil, 2018, p. 1).

The dissemination of intimate images without consent has gained greater visibility over the years, being aggravated due to the advancement of technologies. To address the issue, it is essential to consider that access to the internet contributed to the diversity and variety of functions so close to the individual. The internet allows the subjects to expose their intimacy, and what was previously considered the intimate sphere transcended its limits and invaded the public sphere (Sibilia, 2010). When an intimate image depicting a nude scene is disclosed without the consent of the person (woman or man) being photographed, intimacy is violently exposed in public contexts, which can be the target of disrespectful comments about the situations experienced by women, evidencing sexist positions and socially reproduced gender inequalities.

The definition of gender proposed by Joan Scott (1995, p. 86) and used in this study involves two propositions: “[...] (1) gender is a constitutive element of social relationships based on perceived differences between the sexes and (2) gender is a primary way of signifying relationships of power”. This definition emphasizes the relational aspect of gender and how it operates in the constitution of subjectivities, discrimination, and inequalities between women and men. In light of the above concept,

it is possible to consider that situations of violence against women result from unequal power relations.

The manifestation of unequal relationships of power between men and women was recognized by the Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women, known as the “Convention of Belém do Pará”, adopted in Belém do Pará on June 9, 1994 (Organização dos Estados Americanos [OEA], 1994) and enacted in Brazil by Decree n. 1773, of August 1, 1994 (Brasil, 1996). When dealing with the States parties to the Convention of Belém do Pará, the text highlights: “CONCERNED because violence against women constitutes an offense against human dignity and is a manifestation of historically unequal relationships of power between women and men.” (OEA, 1994, p. 1).

Throughout the construction of Human Rights explicitly aimed at women, there is evidence that, in gender relations, women are considered inferior to men. It is a historical relationship that structures society, whose deconstruction is complex and time-consuming (Castilho & Campos, 2018). Therefore, historically, violence occurs in female bodies and those violent relationships exist because power relations are asymmetrical and cross each person’s daily life (Bandeira, 2014).

Although the offense above¹ can be committed against men and women, the unauthorized disclosure of a woman’s intimate image and its consequences (social judgment, job loss, name change, among others) is based on gender differences, where women are considered objects of the male sexuality (Almeida & Campos, 2017). Studies on the subject show references to the terms “revenge pornography” or “non-consensual pornography”, defined as a practice that includes disclosure of private actions with or without the victim’s consent, within the framework of an intimate affective relationship, via the internet, on social networks and through sharing on instant

¹ Article 218-C of the Brazilian Penal Code typifies the offense: “Art. 218-C. Offering, exchanging, making available, transmitting, selling or displaying for sale, distributing, publishing or disclosing, by any means - including mass communication or computer or telematics systems -, photography, video or other audiovisual record that contains scenes of rape or rape of a vulnerable person or that condones or encourages its practice, **or, without the victim’s consent, a sex scene, nudity or pornography**: Penalty - imprisonment, from 1 (one) to 5 (five) years, if the fact does not constitute a more serious crime.” (Brasil, 1940. Our emphasis). This offense can also be combined with art. 216-B of that code: “Art. 216-B. Producing, photographing, filming or recording, by any means, content with a scene of nudity or sexual or lewd acts of an intimate and private nature without the authorization of the participants: Penalty - detention, from 6 (six) months to 1 (one) year, and a fine. Sole paragraph. The same penalty applies to anyone who mounts a photograph, video, audio or any other record with the aim of including a person in a scene of nudity or an intimate sexual or lewd act.” (Brasil, 1940).

messaging services (Gonçalves & Almeida, 2018).

The term “pornography” is criticized because photos and videos containing nudity are not necessarily produced for sexual purposes, although, in most cases, access to this material is for this purpose (Gonçalves & Almeida, 2018). In addition, in pornography, the person photographed gives consent to disseminating the images. Therefore, for the authors, the most appropriate terminology would be non-consensual sexual exposure. Moreover, the term “revenge pornography” gained strength in the Brazilian media in 2013, when two teenagers between 16 and 17 years old committed suicide because of online mockery, humiliation, and persecution they suffered after the non-consensual disclosure of photos and videos containing nude scenes of both (Lins, 2016).

According to Lins (2016), it is difficult to trace the origin of the term in Brazil, and its use in português, *pornografia de revanche*, seems to be an adaptation of the expression *revenge porn*, used in the US context. The category “revenge porn” aims to damage the image and morale of the exposed person, especially women. It is considered a technological form of violence against women, requiring political confrontation and the creation of more rigorous legal solutions (Lins, 2016), such as happened with the enactment of Law n. 13.772/2018 (Brasil, 2018) and the amendment of Law n. 11.340/2006 (Brasil, 2006), for example. Revenge pornography was presented as a new way of perpetuating discrimination and violence against women using technology since, spread across the network, such content would bring moral and psychological consequences that the community would judge for being linked to sexual behavior (Lins, 2016).

According to Cavalcante and Lelis (2016), cases of revenge pornography are strategies to delimit women’s spaces and behavior concerning their sexual freedom, and intimate life exercised without prejudice, which, unfortunately, is interpreted by common sense as luxurious, vulgar, and reprehensible. Therefore, revenge pornography is mainly provoked by partners who seek to gain control over women’s lives after the end of a relationship by violating their physical, moral, and psychological integrity (Lins, 2016). In this case, the aggressors are intimate and affective partners with whom the women in situations of violence established bonds of trust, sharing their sexual experiences. In this context, permission for photography/filming happened within a couple’s intimacy but only linked to the capture of images without consent for their

disclosure to third parties (Cavalcante & Lelis, 2016). The dissemination of those images can happen through e-mail, social media, publications on websites aimed explicitly at pornography, etc. Some of those platforms have user policies in which censorship of nudity occurs in an “easier” way. However, the control of disclosure by Whatsapp makes it difficult to block sharing because it is on each user’s cell phone (Lins, 2016).

It is essential to resume the discussion on gender and power relationships on the subject. Given the social construction of gender, the image of a fragile woman, moved by emotions, passive, and subordinate to a man, is still very strong. It has been used for men in courts of law (Cavalcante, Gomes, & Moreira, 2017) as a reflection of the thinking of a society. In the courts, men are seen as dangerous and analyzed for their life history, not just for the law breach committed; on the other hand, women are considered more vulnerable, somebody who needs the protection of the State (Cavalcante *et al.*, 2017), which reinforces gender inequalities.

The defamation of a woman’s image through the dissemination of her intimate image is a way of making gender constructions visible, in line with reflections produced by studies focusing on violence against women, “[...] which end up becoming a control tool of ways of life and products of subjectivities” (Cavalcante *et al.*, 2017, p. 75). Violence against women occurs in such a way as to compromise their psychological health, since psychological violence precedes other types of violence. The partner uses this aggression to defame the woman’s image, making her feel worthless and despised (Fonseca, Ribeiro, & Leal, 2012). In the case of violation of privacy through disclosure of an intimate image, for example, threats may occur before the disclosure, making women fear for their image and compromising their self-confidence. “Psychological violence jeopardizes self-esteem, leading to the distortion of thought in the construction of beliefs of worthlessness and self-depreciation, interfering with the well-being and development of women’s psychological health.” (Fonseca *et al.*, 2012, p. 310). This violence is correlated with other types of violence (Echeverria, 2018), such as moral violence, which is provided for in Law n. 11.340/2006, Art. 7: “V – moral violence, understood as any conduct that configures slander, defamation, or injury” (Brasil, 2006). In the disclosure of an intimate image without consent, the defamation of the woman’s image can be demonstrated and configured as the main objective of the disclosure. Therefore, psychological and moral violence can be analyzed as causing great psychic

suffering, which, in the long term, damages mainly the woman's self-esteem (Siqueira *et al.*, 2018).

Therefore, we argue that gender inequalities in love relationships can be evidenced when men disclose intimate images without the women's consent. In cases involving, for example, the end of a relationship, men exercise power over women's personal lives and social relationships by disclosing intimate images.

The topic of the non-consensual dissemination of intimate images is a relatively recent topic, with few studies in the field of Psychology, as verified in the research carried out in September 2020 in the databases of the Virtual Health Library (VHL), of the Scientific Electronic Library Online (SciELO) and Capes journals, which included some publications mostly in the field of Law. However, as a situation of psychological violence, it is fundamental to carry out studies in the field of Psychology on the violation of privacy, given its consequences for women's psychosocial health, as demonstrated by the studies gathered in this introduction.

Methodological procedures

This research is exploratory and descriptive, carried out through a qualitative approach with content analysis of the selected documents, according to the guidance of Laurence Bardin (2004) and from the three stages: (1) pre-analysis; (2) exploration of the material; (3) treatment of the obtained results and interpretation. Next, each stage of the research process will be described. For the documentary research, based on the objective of the study, we selected documents related to judgments of the Court of Justice of Santa Catarina and the Court of Justice of Rio Grande do Sul, in the period 2016-2021, which constitute second-class decisions of appellate level.

As part of the first stage, related to pre-analysis, we searched and selected documents. We began the studies by searching judgments available in the database of the Court of Justice of Santa Catarina, on March 14, 2021, by combining three keywords chosen based on our readings on the subject and the application of filters (1) access to the long form of the process, (2) judgments of the Court of Justice of that state, (3) documents within the scope of Civil Law and Criminal Law, (4) period 2016-2021. We opted for accessing public long-form documents based on the possibility

of identifying in greater detail on judged cases information on women's psychosocial aspects resulting from the disclosure of an image with intimate nudity scene content.

The research was carried out in March 2021, on both platforms, with the following keywords: (1) "women authorized image", which resulted in 64 documents, but only four referred to the topic; (2) "disclosure of nudity", which resulted in 75 documents, of which 15 referred to the theme; (3) Article of the Penal Code "218-C", which resulted in 20 documents, but only four referred to the subject.

After the full reading of the 23 documents identified by the combination of keywords, guided by the process of inclusion and exclusion of materials not related to the research objectives, three documents were selected for analysis: (1) civil sphere documents, since, as this is a civil liability action for moral damages, with a compensation claim, psychosocial aspects were identified in more detail in the decisions; (2) images with nude scenes released by former love partners²; (3) documents related to the period 2016-2021, in order to cover the five years that preceded the amendment of article 7 of Law n. 11.340/2006³.

The three selected documents, legally classified as a civil appeal, which deal with civil liability moral damages, are dated from 2016, 2018, and 2020, respectively, from the Courts of Justice of Rio Grande do Sul (2016 and 2018) and Santa Catarina (2020). The civil liability action for moral damages is a way to repair the damage suffered without profiting. According to Tartuce (2020), moral damage consists of the injury to the right to personality, and, to repair the damage suffered, the offender may pay compensation in cash to try to reduce the consequence of immaterial damage, which can cause pain, sadness, bitterness, suffering, anguish, and depression.

In the following stages of analysis, we "explored the material", "treated the results", and "interpreted" them. In the coding stage, through qualitative analysis, the contents of each document enabled the construction of record and context units. Then, through thematic analysis, we organized the recording units, which allowed us to identify "[...] 'nuclei of meaning' that make up the communication and whose presence

²From the documents located, in a total of 14, it was not possible to identify who disclosed the images or if they were referred to as disclosed by third parties; yet, two were indemnity actions against the *site* or the image dissemination platform.

³ The Art. 7 of Law 11.340/2006 was altered in December 2018. So, the decisions that preceded this modification were published two years before and three years after, within the time frame delimited in the research.

or frequency of appearance may mean something for the chosen analytical objective.” (Bardin, 2004, p. 99). In that direction, the context unit was a condition to identify the registration units insofar as it allows understanding them from the set of contents under analysis.

The recording units were prepared after the individual and integrated reading of the three documents, defined by the content of the facts they described. We also used the arguments sustained in the requests for moral damages and, mainly, the rights violations described in all the documents insofar as the violence situation was not denied. Finally, through categorization, the recording units were grouped into three thematic categories, intending to enhance dialogues between meanings revealed in conceptual titles at the end of the process and that are articulated around the research objectives: (1) from the context to the facts of the dissemination of images with intimate and private nudity scene content as a male gesture of revenge; (2) when men expose women’s bodies: gender violence in three scenes; (3) repair the irreparable in the context of psychosocial suffering: civil liability actions for moral damages in the context of the dissemination of images with intimate and private nudity scenes.

Results and discussions

For a better understanding, we organized the results and discussions based on the three analytical categories constructed and identified in the methodological procedures, in dialogue with the theoretical and legislative frameworks.

(1) From context to facts: dissemination of images with the content of intimate nudity scenes as a male gesture of revenge

To deal with the analytical category and reference the documents later throughout the analysis, we decided to present each individually as 1, 2, and 3, according to the year of reference in ascending order.

Document 1 refers to the year 2016 and is a civil liability action for moral damages resulting from the unauthorized dissemination of intimate images on a video channel and social networks, which suggested an extramarital relationship. In this document, during a crisis in the marital relationship, a woman, one of the authors of the

request, hooked up with her former boyfriend a few times. The intimate scenes were video recorded in one of the meetings, which took place in a motel. The videos were disclosed specifically to people known to the couple. The action was filed by the woman and her husband, who also claimed to have suffered moral damages due to the dissemination of the images.

The woman stated that she looked comfortable in the images because she trusted the man, as they were a longtime acquaintance. She reported that she had never intended anyone to see the images, evidencing the lack of consent for disclosure. The person who disclosed the images, defendant in the lawsuit, claimed that the woman had consented, that she was at ease and smiled during the shootings. In the man's view, the woman did not care about the publication of the videos and did not specify an agreement for non-disclosure. The document states that the images do not depict explicit sexual intercourse but implicitly suggest that the woman practiced the sexual act.

Document 2 of 2018 refers to a civil liability action for moral damage caused by a man's disclosure of his partner's intimate photos through Whatsapp. The document describes that in 2014 a couple had a romantic relationship, and their intimate moment was registered in photos at the man's residence after a party at a nightclub. A month after the event, the woman was surprised when her cousin and several friends told her about the disclosure of her intimate photos in Whatsapp. The material was sent to the woman's friends and co-workers. After understanding the facts, she contacted the man, and he confessed. However, during the lawsuit, he stated that he maintained only occasional intimate relationships with the woman and that the photos released were not taken at his home. He also stated that he was not the author of the photos and did not link the images to the woman; thus, there was no proof that she was the person in the image.

In the description of the fact, it is evident that the love relationship between the couple ended, and the judiciary recognized the facts as "revenge porn". In other words, the man's objective was to take revenge on the woman after the end of the relationship by disclosing the photos in his possession. In other words, it is significant to note the man's need to show that he was not in pain with the end of the relationship, directing the feelings towards revenge to produce suffering and anguish in the former partner.

Document 3 refers to the year 2020 and deals with a civil appeal for civil liability for moral damages due to the unauthorized disclosure of videos and photos with

sexual content on social networks and electronic websites. The intimate photos and videos were produced with the woman's consent during the couple's affective relationship; however, she did not authorize them to be released. The document states that during the relationship, the man began to be possessive, jealous, abusive, and disrespectful, creating conflicts that made her put an end to it. After the breakup, the woman's ex-partner threatened to disclose the photos and videos produced based on the trust and loyalty deposited in the relationship and began stalking her⁴ at work, breaching the removal order established by the Criminal Court of Domestic and Family Violence against Women.

The document states that the woman reported that the man did not accept the end of the relationship, so he disseminated the photos and videos on websites and fake profiles to which close friends were added. The man claimed that he posted the images intending to draw his ex-girlfriend's attention, as he could not deal with the end of the relationship. He also claimed that she was at fault for allowing him to make the images. When appealing the initial process, the man sought to prove that he had bipolar disorder to justify the facts. However, messages exchanged after the end of the relationship made evident that the content was released with the intention of embarrassing, harming, and tarnishing the woman's image and honor publicly. The man also admitted that he was responsible for publishing the photos and videos on social networks and websites of sexual content without the woman's consent.

Based on the documents, the brief description of the three cases suggests two different situations related to the moment of registration and dissemination of the images, respectively. First, the relationship between the subjects involved (men and women) at the time of registration leads to a relationship of trust, and second, the disclosure exposes the male gesture of revenge. In document 2, for example, the dissemination of images was considered "revenge porn", which, according to Lins (2016), aims to damage the image and morals of the woman exposed through a technological form of violence against women.

Rocha, Pedrinha, and Oliveira (2019) indicate that revenge porn is linked to technological modernity, relating to the difficulties of legal institutions in keeping up

⁴ A recent legislative amendment to the Brazilian Penal Code typified the conduct of stalking, through Law n. 14.132, of March 31, 2021, "Art. 147-A is added to Decree-Law n. 2.848, of December 7, 1940 (Criminal Code), to provide for the crime of stalking; and revokes art. 65 of Decree-Law n. 3.688, of October 3, 1941 (Criminal Misdemeanors Law)." (Brasil, 2021, p. 1).

with changes and responding quickly and satisfactorily to cases of violence; i.e., the social environment favors the practice of pornographic revenge at the same time that institutions have difficulties in responding to its consequences. Therefore, the term “revenge porn” can be questioned, given the right to privacy related to sexuality, sex life, and choices (Rocha *et al.*, 2019).

In documents 2 and 3, the motivation for disclosure was attributed to the end of the relationship and the male inability to deal with the situation. Therefore, the male revenge gesture constitutes a mechanism to “deal” with the end of the relationship in an attempt to dominate women’s lives in and out of the relationship. By admitting the having exposed their ex-partners, the men showed to be proud, as in none of the cases the women showed regret or requested public retraction. In the case of pride related to some norm of masculinity, Scott (1995) contributes to the debate when she discusses the norms that support the symbols, which constitute social relations between the sexes and relationships of power in different areas.

In revenge, male control and female subordination relations are at stake. According to Scott (1995), women’s subordination can be explained by the male’s “need” to control women’s lives. In the documents, we identify the male’s need to dominate the ex-partner’s life by disclosing the images. Document 2 shows that the man not only disclosed the images to the woman’s friends but also forwarded them to co-workers to undermine her professional life. Document 3 reveals jealousy and abuse during the couple’s relationship, constituting mechanisms to control the woman in the relationship. Finally, in document 1, the act of revenge is directed at the woman and her husband.

Therefore, it is possible to say that the attempt to control the woman’s life is updated in the gesture of revenge after the end of the relationship. Likewise, when the man chooses to keep records of intimate images, as mentioned in document 2, “[...] because the photos were in his possession”. As Lins (2016) demonstrated, revenge porn happens because partners seek to gain control over women’s lives, even after the end of the relationship.

The analysis of the facts presented in the three documents instigates us to problematize the repetition of the argument that the woman was “comfortable” in the images insofar as comfort was associated with the couple’s intimate moment but not with its disclosure. It is important to emphasize that the registration is made based on

the woman's confidence in her partner, as mentioned in document 1. The possibility of disclosing the images might not be possible for the women when considering the trust in their partners and their relationship. In this context, however, she allows her partner only to capture the images. She does not allow him to disclose them to third parties (Cavalcante & Lelis, 2016).

Therefore, as suggested, we can identify two moments: the recording of images, carried out in an intimate environment, and their dissemination in the public domain. According to Schlösser and Camargo (2019), among the many elements that constitute social representations of love relationships are intimacy and trust, identified as characterizing a relationship in which explicit communication is unnecessary.

(2) When women's bodies are exposed by men: gender violence in three scenes

Gender violence against women in three scenes occurs at the time of disclosure of intimate images and materializes the violation of rights and gender inequalities. First, when the woman's body is disclosed, violence is manifested in/through the body that was disclosed; second, the exposure of women's bodies is a violation of rights under the Brazilian legal system; and, third, gender violence is manifested between people who share the several contexts in which the intimate image transits.

In document 1, the woman stated that she had her privacy violated, and the court agreed by reaffirming that there was no doubt that the woman's right to privacy was violated when her images were improperly disclosed on the internet. In addition to the violated rights mentioned in the document, it can be said that the right to the free exercise of sexuality was also violated.

Document 2 described that the violence committed was a sensitive issue related to gender discrimination and the judgment that women, historically, suffer from society in general because of the standards of behavior imposed on them. With this description in the document, we can say that, socially, women are expected to have more submissive, passive, and timid behavior, which prevents them from freely living their sexuality, given the male objectives at the time of sharing the images produced in the context of intimacy.

Violation of intimacy by disclosing a nude scene can be characterized as gender violence because, through disclosure, men can exercise control over women's lives.

According to Bandeira (2014), the various forms of manifestation of gender violence against women are ways of establishing power relations linked to situations of intimidation, fear, and dependence. In the case of intimate image disclosure, the power males exercise can be observed in situations of humiliation and isolation, frequent demands in the three studied documents.

Thus, it is through unequal gender relations that women's right to a life free of violence is violated, which can be justified by gender positions. Bandeira (2014) points out that violence occurs in female bodies and that violent relationships exist because power relations are asymmetrical and circulate in everyday life. Also, according to Louro (1997), unequal power relations are linked to the social construction of masculinity and femininity, i.e., to the standards that society establishes for its members, whether men or women.

They are asymmetrical relationships that, through the exercise of power, established and evidenced gender violence, as described in document 2, through the legal recognition of the violation of intimacy as gender violence through the content of the intimate nudity scene. Based on the analysis of the documents, we verified that the violence occurred through the dissemination of non-consensual intimate images of women and the disclosed and violated body in which gender violence is manifested.

The violation of privacy, described in the three documents, can be analyzed based on the change in Law n. 11.340/2006 and Law n.13.772/2018, which recognized the violation of women's privacy as a configuration of domestic and family violence:

[This document] Amends Law 11.340 of August 7, 2006 (Maria da Penha Law), and Decree-Law 2.848, de December 7, 1940 (Penal Code), to acknowledge that the violation of women's privacy configures domestic and family violence and criminalize the unauthorized registration of content with scenes of nudity or sexual or libidinous acts of an intimate and private nature. (Brasil, 2018, p. 1).

In addition, as evidenced in the text of the introduction, in Law n. 11.340/2006, Art. 7 was altered, referring to forms of domestic and family violence against women, specifically in the context of psychological violence, to include the violation of privacy:

II - psychological violence, understood as any conduct that causes emotional damage and decreases self-esteem or that harms and disturbs the full development or that aims to degrade or control their actions, behaviors, beliefs, and decisions through threat, embarrassment, humiliation, manipulation, isolation, constant surveillance, persistent persecution, insult, blackmail, violation of privacy, ridicule, exploitation and limitation of the right to come and

go or any other means that causes harm to psychological health and self-determination. (Brasil, 2006, p. 2).

Based on the studies, we see that Law n. 13.772/2018 refers to unauthorized registration and exposure of sexual intimacy. In addition, the disclosure of intimate nudity scene content constitutes a violation of privacy. Therefore, the law criminalizes the unauthorized registration of content with scenes of nudity or sexual or libidinous acts of an intimate nature. Moreover, in addition to changes in the field of psychological violence, moral violence is evident in cases of disclosure of an intimate image and the defamation⁵ of the woman's image before third parties, as already mentioned in Art. 7 of Law n. 11.340/2006.

Another right violated but not mentioned in the documents is the free exercise of sexuality, related to the right to sexuality. This human right was recognized in the Declaration of Sexual Rights of 1997, affirming the possibility of each and every person having safe sexual experiences, free from coercion, discrimination or violence (Rocha *et al.*, 2019).

Thus, when the images were recorded, the women were exercising their right to live a free sexual life; however, when the images were publicized, they represented a situation of violence because the women had not authorized the disclosure, which configured rights violation. It should be noted that the sexual experiences experienced by women threaten the patriarchal culture, considering that, according to Bandeira (2014), patriarchy structures the family and regulates sexuality and bodies.

Therefore, violations of rights by this type of violence occur in intimacy, professional life, social life, and the various areas in which women and their bodies transit. Such violations bring psychosocial consequences, hence the importance of a Brazilian legal system in line with social demands, with possibilities to promote the protection and guarantee of women's human rights.

⁵ The crime of defamation, understood as a form of moral violence, is typified in the Penal Code: "Art. 139 - Defame someone, imputing to them a fact that is offensive to their reputation: Penalty - detention, from three months to one year, and a fine." (Brasil, 1940).

(3) Repairing the irreparable in the context of psychosocial suffering: Civil liability actions for moral damages in the context of the dissemination of images with intimate nudity scene content

As seen in previous reflections presented in the study, violence in the context of the violation of intimacy with the content of an intimate nudity scene produces psychosocial effects along the trajectory of women who have experienced it, forming part of a “past” that marks their stories and the present. Likewise, we sought to demonstrate that this is a manifestation of violence resulting from unequal power relations between men and women. Throughout this category, based on the documents and the bibliographic reference, the psychosocial suffering experienced by the women is described, allowing a reflection on the psychological and moral damage produced. It is essential to point out that the selected documents dealt with civil appeals for the revision of the amount of compensation according to the economic conditions of each person involved.

In document 1, the woman reports disorders arising from the dissemination of intimate images after undue exposure. According to the document, the woman and her husband suffered embarrassment and mockery from family members and friends. The husband was also asked by his employer about the footage.

The analysis allowed us to verify that document 2 disclosed the psychosocial effects in more detail than document 1. It acknowledged that the woman’s honor had been undermined, causing her suffering and anguish towards third parties because the disclosure of the nude photos generated evident exposure, embarrassment, and humiliation. It also caused much psychological damage and made her unable to socialize as she did before the images were released.

In document 2, we could observe that the woman was surprised by her cousin and friends when they told her about the dissemination of the images. She was even more upset when she obtained the confession of the man with whom she had a loving relationship with trust and shared intimate moments. Contradicting the woman’s speech, the man reported that she continued her social life after the disclosure episode. The document acknowledges that the woman had her honor indisputably shaken and that the disclosure caused her embarrassment and humiliation.

In document 3, the psychosocial effects that compromised the woman's life were described with greater relevance. After the end of the relationship, she began to be pursued, embarrassed, and threatened by her ex-partner in public places. He also insistently called her at work, so, as a result of the persecution, the woman had her place of work affected. Moreover, the contacts reported the existence of intimate photos and videos on the internet, urging co-workers to view the improperly posted content. The documentary record demonstrated that the man's conduct caused her psychological suffering and tarnished her honor.

The victim also had her social environment compromised, as friends commented on the photos and strangers made inappropriate comments (not specified in the document) about her. These were concerns experienced by the woman that went beyond mere annoyance. Thus, it is important to pay attention to the consequences caused by violence (Azambuja & Nogueira, 2008).

Situations of embarrassment and humiliation were reported in the three documents analyzed, causing social impacts, such as isolation. Social isolation can be a consequence of psychological and moral violence suffered by women. According to Siqueira *et al.* (2018), long-term psychic suffering damages individuals' self-esteem and social interaction, an often silent and invisible consequence. Women in a situation of violence or who have already experienced more such situations develop post-traumatic stress, anxiety, and phobia, highlighting the relationship between violence and mental health (Silva *et al.*, 2017).

The consequences of this violence may be aggravated in the woman's social life due to guilt, shame, and embarrassment. Fonseca *et al.* (2012) show that gender violence reveals a public and complex problem, emphasizing the individual's social sphere, creating restrictions in social life, poor social acceptance, prejudice, and discrimination. According to the authors, shame and social seclusion that promote isolation are examples of common attitudes among women in situations of violence. Through our readings for this study, we can say that the restriction of social interaction generated by the disclosure of an intimate image is not only caused by men but also by women who, as part of the patriarchal structure, control other women's sexuality.

Neves and Nogueira (2003) observed that offenses committed in intimacy cause the most harmful effects, which instigates us to problematize the fact that women may not be protected in an intimate and domestic environment. In this way, the power

exercised in relationships can be characterized as produced by patriarchy that surrounds women's lives and even in the sphere of sexuality, culminating in various judgments of today's society. It is important to remember that one of the central elements of patriarchy is the control of sexuality (Saffioti, 2004).

In the case of violation of privacy by improper disclosure of image, the shock can be on a large scale, to the point that the suffering is unbearable. This was the case of a 16-year-old teenager from Serra Gaúcha, who, in 2013, committed suicide after a friend told her that her ex-boyfriend had disclosed her images (GZH Geral, 2013)⁶.

Psychosocial suffering can also be observed in the case of Rose Leonel,⁷ who, after having her images released by her ex-partner, created the NGO "Marias da Internet",⁸ aimed at legal, psychological, and digital expertise guidance for women who have experienced situations of undue dissemination of intimate material. In an interview available on the NGO blog, granted to the TV news Painel RPC in Paraná, the woman reported that after the images were published, her children had to change schools due to classmates' comments and that her work was compromised: "I lost my job, I lost my friends, I lost everything I had in my life".

In the same interview, another woman testified that when she discovered the dissemination of her images, she was so desperate that she wanted to take her own life. Isolation was the alternative she sought to avoid the comments and shame she felt when she walked on the streets. Volunteers from that NGO stressed that the first step towards support is to keep the woman alive.

Fonseca *et al.* (2012) point out that psychological violence precedes other forms of violence against women. However, in situations of dissemination of intimate images, in this research and analysis of the documents, we consider that psychological violence could be observed before the dissemination of images (with the threats) and after it occurred, causing isolation, humiliation, and embarrassment. This type of violence compromises self-esteem and the capacity for self-deprecation and interferes with women's psychological health (Fonseca *et al.*, 2012).

⁶ Available in: <https://gauchazh.clicrbs.com.br/geral/noticia/2013/11/adolescente-de-16-anos-de-veranopolis-se-suicida-a-pos-ter-fotos-intimas-divulgadas-na-internet-4338577.html>. Accessed on: May 12, 2021.

⁷ Rose Leonel suffered the crime of unauthorized image disclosure by her ex-partner, who did not accept the end of the relationship. He made threats and, in 2006, started posting pictures of her on the *internet*.

⁸ Available in: <http://www.mariasdainternet.com.br/>. Accessed on: May 12, 2021.

The descriptions in the documents showed us that this type of violence is a threat to the woman's social life and, mainly, to her life, due to the proportion of suffering and destabilization caused when she becomes aware of the disclosure. In the selected and analyzed documents, the intensity and duration of suffering caused by the man's conduct were evaluated. The judiciary recognized the psychosocial effects and the difficulty in quantifying and establishing a monetary value for the moral damage and psychological suffering experienced by the woman. The indemnity amount stipulated for the repair of moral damage ranged from R\$ 7,880.00 to R\$ 40,000.00. It is possible to estimate that the women underwent exposure and judgement at two different times: in the first, with the images released, and in the second, with the stipulation of the indemnity value. As pointed out in document 2, the photos were released without consent in 2014, and compensation for moral damages was adjudicated in 2018. The different temporalities indicate the updating of the women's exposure and the continuity of psychosocial suffering. It is believed that women sought a response from justice, since exposure and social judgment are problematic, suggesting that it is a matter of seeking to repair the damage that may be irreparable because of the suffering that may haunt them throughout their lives.

Final considerations

This study problematizes and analyzes the psychosocial aspects verified in violence against women and violation of intimacy through the dissemination of images taken in the context of relationships of affection containing nude scenes, in the jurisprudence of the Courts of Justice of Santa Catarina and Rio Grande do Sul, between 2016 and 2021. To achieve the objective, it was necessary to study issues related to the Brazilian legal system and the trajectory of women's rights, as well as gender studies in Psychology, which were of paramount importance to understand the aspects involved in this type of violence and how it can affect women's lives in such situations.

To achieve the objective, we had to identify and research, within the scope of Law, the violation of the right to privacy when there is non-consensual dissemination of intimate nudity images and the existence of moral damage in this type of violence. In Psychology, the importance of analyses involving the possible existence of psychological and moral violence related to the disclosure of an intimate image and the

psychosocial consequences experienced by women in the interface with gender studies is highlighted.

We estimate that the analysis made it possible to respond to the objective of the study and emphasize the need for Psychology to expand studies on violence against women through the dissemination of intimate images, especially in terms of psychosocial suffering, which, as demonstrated, poses a risk to life. In this research, we did not find Psychology studies on the subject, which constituted one of the limitations we faced.

With the development of the study, we could see that the dissemination of unauthorized images is violence related to the right to privacy, which, as a consequence, produces psychological and moral suffering. Furthermore, the importance of welcoming women in situations of intimate image disclosure was evident due to the proportion of suffering, the possible risk to life, social isolation, and shame, as described in the analyzed media.

The focus on the violation of privacy observed in the Maria da Penha Law could highlight the legal attempt to incorporate forms of violence that advance with the presence of technology. Such situations of violence show a patriarchal structure that is constituted in different areas of women's coexistence, such as family, schools, and work relationships, among others.

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