

## ORIGINAL ARTICLE

### MARITAL VIOLENCE CONTEXT AFTER THE MARIA DA PENHA LAW: A GROUNDED THEORY STUDY

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#### ABSTRACT

**Objective:** To analyze the context of marital violence experienced by women in legal proceedings.

**Methodology:** This is a qualitative study based on the grounded theory, conducted with 29 women in legal proceedings for marital violence and nine professionals who work at two Courts for Peace at Home in Bahia, Brazil. Data collection was performed from January to May 2015.

**Results:** Despite the Maria da Penha Law, the study shows that marital relationships of women are permeated by physical, sexual, psychological, moral and property abuse, with some of them being sent away from home.

**Conclusion:** Marital violence contexts appear in different ways, which can be identified by health professionals, allowing women's care actions to address the problem.

**DESCRIPTORS:** Violence; Violence Against Women; Primary Care Nursing; Public Health; Public Health Policy.


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## CONTEXTO DA VIOLÊNCIA CONJUGAL EM TEMPOS DE MARIA DA PENHA: UM ESTUDO EM GROUNDED THEORY

### RESUMO

*Objetivo:* desvelar o contexto da violência conjugal experienciados por mulheres em processo judicial.

*Método:* pesquisa qualitativa baseada na Grounded Theory, realizado com 29 mulheres em processo judicial por violência conjugal e os nove profissionais que atuam junto a duas Varas de Justiça pela Paz em Casa, na Bahia, Brasil. A coleta dos dados foi realizada no período de janeiro a maio de 2015.

*Resultados:* em que pese a Lei Maria da Penha, o estudo revela que as relações conjugais das mulheres são permeadas por abusos físicos, sexuais, psicológicos, morais e patrimoniais, inclusive expulsão do lar.

*Conclusão:* o contexto de violência experienciado na conjugalidade feminina se manifesta de diferentes formas, passíveis de identificação por profissionais de saúde, o que possibilita ação de cuidado à mulher e enfrentamento da problemática.

**DESCRITORES:** Violência; Violência Contra a Mulher; Enfermagem de Atenção Primária; Saúde Pública; Políticas Públicas de Saúde.

## CONTEXTO DE LA VIOLENCIA CONYUGAL EN TIEMPOS DE MARIA DA PENHA: ESTUDIO EN GROUNDED THEORY

### RESUMEN:

*Objetivo:* Revelar el contexto de la violencia familiar experimentada por mujeres en proceso judicial.

*Método:* Investigación cualitativa fundamentada en la Grounded Theory, realizado con 29 mujeres en proceso judicial por violencia conyugal y los nueve profesionales que actúan con los dos Tribunales de Justicia por la Paz Hogareña en Bahía, Brasil. Datos recolectados de enero a mayo de 2015.

*Resultados:* A pesar de la Ley Maria da Penha, el estudio revela que las relaciones conyugales de las mujeres están teñidas por abusos físicos, sexuales, psicológicos, morales y patrimoniales, incluyendo la expulsión del hogar.

*Conclusión:* El contexto de violencia experimentado por las mujeres en su vida conyugal se manifiesta de diferentes formas, identificables por los profesionales de salud, permitiendo esto la acción de cuidado a la mujer y el enfrentamiento de la problemática.

**DESCRITORES:** Violencia; Violencia contra la Mujer; Enfermería de Atención Primaria; Salud Pública; Políticas Públicas de Salud.

## INTRODUCTION

Despite the Maria da Penha Law, marital violence persists as a serious public health problem, with significant implications for women's health. However, health professionals often fail to recognize such aggravations, affecting measures and care demanded by women.

Considered a pandemic, one out of three women in the world has experienced violence by an intimate partner, and in some countries, such as India and Cambodia, this type of violence can reach up to 70% of the female population<sup>(1)</sup>. Data from Brazil show that two out of three violence reports in health services have women as victims<sup>(2)</sup>.

In order to address this problem, Law 11.340/2006, or Maria da Penha Law, was implemented in Brazil, which defines violence against women as any action or omission based on gender inequality that causes psychological, physical or sexual harm to women, including death<sup>(3)</sup>. Although this law was created to prevent and inhibit violence against women, the numbers of cases of violence against women remain high in the country<sup>(2)</sup>, triggering physical and psychological issues in women.

National and international studies show these problems generate an impact on women's health, which is observed in the form of fear, anxiety, depression, post-traumatic stress disorder, chronic pain, gastrointestinal disorders, sexually transmitted infections, and injuries such as bruises, fractures, and lacerations<sup>(4-6)</sup>.

This scenario around women's life and health shows the need for health professionals to identify marital violence. However, a study conducted in the primary health care setting indicates that none of the health professionals interviewed in the study reported an approach to this theme in their undergraduate courses or in several graduate programs they had attended in their careers, with an impact on measures to address this issue<sup>(7)</sup>.

Considering the need for health professionals to recognize marital violence, which is of great impact on women's lives, this study aimed to analyze the context of conjugal violence experienced by women in legal proceedings.

## METHOD

This is a qualitative study using the grounded theory, which is a theoretical-methodological framework that helps understand social phenomena based on the reality and meanings of people's relationships and interactions in a given context<sup>(8)</sup>. It is linked to a main project named *Reeducação de homens e mulheres envolvidos em processo criminal: estratégia de enfrentamento da violência conjugal* (Re-education of men and women involved in criminal proceedings: a strategy to address marital violence), funded by the Bahia Research Foundation, with support of the Bahia Public Security Secretariat.

Data were collected from January to May 2015 at two Courts for Home Peace located in the State of Bahia, Brazil, using open and individual interviews, previously scheduled via telephone contact, which were later transcribed in full for the systematization process.

The theoretical sampling of this study included participants distributed in two sample groups. The first group was intentionally chosen and had women in legal proceedings supervised by the court, and its inclusion criterion was: women in legal proceedings for marital violence. Women whose emotional state was contraindicated by the psychosocial service of the Court of Justice were excluded.

The guiding principle for this group was: "Tell me about your marital violence experience." After that, other questions were made to the participants to advance the study and have a better understanding of the study theme, according to the method

procedures<sup>(8)</sup>. Based on the analysis of interviews from the first sample group, the following assumption emerged: women who experience conjugal violence, seek the support of professionals from the Network of Care to Women in Situation of Violence. Therefore, this study observed the need to give voice to the network professionals, who comprised the second sample group.

The theoretical sampling had 38 participants: 29 women with marital violence experience, who comprised the first sample group (13 from the first court and 16 from the second court), and nine professionals from the courts (a social worker, a psychologist, a prosecutor, 2 public defenders, 2 conciliators and 2 judges) in the second group.

This project complies with ethical principles and was approved by a research ethics committee (approval 877.905/2014). To preserve anonymity, the interviewees were identified by the letters W and P, as in Women and Professionals, respectively, followed by an Arabic numeral representing the interview order. Ages of women were also inserted.

In the process of data systematization, the comparative analysis was observed during all the study, collecting and analyzing data concomitantly. Memos and diagrams were developed during data analysis, and refer to the records and insights of the researchers in the process of theory development<sup>(8)</sup>. NVIVO® was used to organize data during the comparative analysis and data coding stages.

Data coding occurred in three steps: open, axial and selective coding<sup>(8)</sup>. In open coding, the concepts were identified and grouped into categories, according to their similarities. Then, in axial codification, the categories and subcategories were correlated to obtain a more detailed explanation of data, through an analytical process based on the paradigmatic model of five components of the Straussian approach: context, causal condition, intervening condition, strategy, and consequence.

Finally, in selective coding, the relationships and interactions between the categories were interconnected around a central category, originating the phenomenon of 'Experiencing marital violence as a progressive and cyclical process and its impact on health and human development.' Considering that this context component consists in the specificity that surrounds the phenomenon and creates circumstances for people to respond through actions and interactions<sup>(8)</sup>, the authors decided to deepen this discussion, since the meaning of the actions of the participants promotes a better understanding of the central phenomenon.

## RESULTS

The study participants were aged between 25 and 71 years, with a mean age of 41 years, living in peripheral districts of the city. Most of them were self-declared black (black or brown), in a stable relationship or married, with children, on average 1.7 children per woman.

The context component showed violence against women through the following expressions: property, psychological, moral, sexual and physical violence.

### EXPERIENCING PROPERTY VIOLENCE

The statements indicate property violence, expressed through deprivation of personal assets and documents and deprivation of resources that would meet the needs of women, such as food and shelter, and some women reported they were sent away from their own homes.

*He didn't buy any food for about three months. [...] He sent me out several times, and I had a small boy. [...] after the legal proceeding, he left his job to avoid paying the alimony. (W4, 32 years old)*

*He used to break things at home. [...] He tore my documents. (W22, 31 years old)*

*Her spouse didn't give any money, not even for his kids to eat. [...] when she started to receive the social benefit, she went to the countryside with the kids. (P4)*

## **EXPERIENCING PSYCHOLOGICAL VIOLENCE**

Women revealed a marital context permeated by psychological violence, which has an impact on mental health and self-determination. The following illustrative subcategories were defined:

### **Threat**

Data indicate the marital relationship of women has episodes of threats from their spouses, of deprivation and/or destruction of assets and economic resources to severe physical aggression and/or murder of wife and children.

*[...] he said that he'd hit as I'd never seen in my life, that he would burn down the house, that he wouldn't give me the alimony and that he would take my son from me. (W4, 32 years old)*

*He said he would set me, the house and the children on fire. (W10, 59 years old)*

*Many women remain in a relationship of violence because they are threatened with death. For this reason, they are afraid of leaving their spouses. (P5)*

### **Control**

The statements indicate a condition of submission of women to their spouses, who believe they have the right to control their actions. They expressed constant vigilance, restriction of the right to come and go, and social isolation.

*I had no friends. He said it should be just the two of us. [...] he kept me in false imprisonment at home for two days. I didn't eat anything. (W12, 32 years old)*

*I could only go out with him. I couldn't even go to my family's home. [...] he kept monitoring me. He didn't want me to work, he tore my uniform. (W14, 49 years old)*

*Our society is patriarchal, chauvinistic: a woman belongs to her man, husband, father, and must be submissive and fulfill their wishes. (P2)*

### **Humiliation and embarrassment**

This study identified that the marital life of participants presented episodes of insult and ridicule, such as talking about extramarital relations to relatives and friends. These episodes of psychological violence affect women's body image and self-esteem.

*He was always depreciating me, cursing me, humiliating me, he said I was fat and looked terrible, that I wasn't going to get a boyfriend. [...] and I believed that. (W1, 29 years old)*

*Everyone (relatives and friends) told me he had other women, that he had an affair with a neighbor. [...] he used to hit me and spit on my face. (W20, 39 years old)*

*He said his mother ironed and cooked better than she did. [...] he called her a slut and she incorporated what he said. (P1)*

## EXPERIENCING MORAL VIOLENCE

The statements of the participants showed a context of moral violence with insult and defamation, as observed in the following excerpts:

*I was at a family party, but he thought I was with another man. [...] he said the other man did whatever he wanted with me on the bed and I allowed that. (W2, 68 years old)*

*He's offending me. [...] he calls me slut on the street. (W13, 52 years old)*

*Cases of moral violence are called crimes against honor. [...] cursing that uses pejorative language and depreciates the victim. (P7)*

## EXPERIENCING SEXUAL VIOLENCE

The statements of the participants show a context of sexual violence in their marital life. This reality is most observed during the sexual act, even without the woman's agreement.

*He forced me to do it a few times. He has already forced me to have anal sex. It's very unpleasant to have a sexual intercourse if you don't want it; it's physical violence. I don't feel pleasure. (W4, 32 years old)*

*I used to suffer sexual violence every day. [...] I've had relations three times on just one day. (W20, 39 years old)*

*Sexual violence is almost never a cause to report someone. They only talk if we mention it. They don't understand that they don't have to do it, that it's violence. (P4)*

## EXPERIENCING PHYSICAL VIOLENCE

The stories shared by the participants show marital relationships marked by physical aggressions, such as pushing, slapping, punching and kicking, even during the gestation period.

*He slapped me on the face. [...] I was dizzy and my eye became red with blood. (W3, 71 years old)*

*I was pregnant when we had an argument and he punched my belly. I felt so much pain! Then, he started to kick me, push me and hit me. (W6, 38 years old)*

*What I see here very often is death threat and physical violence: punching, kicking. (P6)*

## DISCUSSION

The marital context experienced by women in situations of violence is characterized by different forms of expression: property, psychological, moral, sexual and physical abuse. Property abuse, as identified in this study, consists of conducts of confinement, deprivation, and partial or total destruction of their objects, personal documents, assets, valuable objects, and money, including amounts to fulfill their needs<sup>(3)</sup>. It is evident when the spouse keeps their financial resources or when the spouse refrains from paying the alimony, a situation also reported in another Brazilian study that shows habitual delay and refusal to pay the food support<sup>(9)</sup>.

It should be noted that the reasons for spouses to fail to pay the alimony include financial problems, sometimes related to unemployment as a result of the temporary prison

stigma in men sued under the Maria da Penha Law<sup>(10)</sup>.

However, in Brazil, refusing to pay the food support to children and wife is a crime, according to the country's penal system, article 244, as it is a risk to the safety and life of dependents<sup>(11)</sup>. International laws also ensure the right of women and children to have their basic needs fulfilled. In Ecuador, it is considered economic violence, ensuring the woman and children the right to full compensation for violated rights<sup>(12)</sup>.

Besides these problems, in the context of property violence, women are sometimes prevented from entering their own homes and other times they are sent out, according to another study reporting that women, because of their fragile family and social ties, have problems finding a safe shelter<sup>(13)</sup>. They are often not allowed to take their belongings like clothes, money, and documents. In other situations, the bad intention of the spouse to take possession of the house built by the couple is clear, since the act of sending them away occurs exactly after the house construction is concluded. The situation is worse when public exposure is extended to children. This context places mother and children to greater social and health vulnerability<sup>(14)</sup>.

When a spouse is put out of home or when a woman decides to leave home due to violence, it does not constitute marital abandonment, where the fleeing spouse has no intention to come back home. In 2006, with Law 11.340, or the Maria da Penha Law, women who had to leave home or were sent away from home now had the support of emergency protective measures. The law guarantees the right to return home with the children and the aggressor should leave home without the marital assets<sup>(3)</sup>.

Even after the adoption of emergency protective measures, many men keep pressuring women. The audacity of a man who threatens the life of the victim after being ordered to leave home shows his refusal to comply with the law and disseminates a culture of impunity. A study conducted in five Brazilian capitals with 64 legal agents and other professionals who work in the Maria da Penha Law enforcement confirms events of noncompliance with the emergency protective measures<sup>(15)</sup>.

This fragility gives a chance for men to keep threatening and endangering the lives of women<sup>(13)</sup>, as media vehicles have reported<sup>(13)</sup> cases of men who do not accept to pay alimony to their children and use extreme actions such as murder<sup>(11)</sup>.

The findings of this study also showed that, besides frightening women, aggressors threaten by using other types of violence, destroying women's assets and taking their children without legal permission. This context, which includes feeling threatened, triggers mental diseases in women, involving insomnia, fear, constant crying and depression<sup>(5)</sup>. In addition, psychological violence was also present in women's lives through constant vigilance, limited right to come and go and social isolation. These actions clearly show the control over women's behaviors and decisions, with an impact on their emotional health<sup>(16)</sup>.

Another form of violence against women is related to verbal aggression, such as embarrassment, humiliation, insult, offense, defamation, and calumny. In some situations, such acts of aggression are classified as moral violence; in others, as psychological violence. The distinction is in cases of offense, a situation in which offense to honor is directed to women; defamation, when the offense to the woman's reputation becomes known to other people; and calumny, which occurs when a person is falsely accused of a criminal act. It should be noted that a distinction between psychological and moral violence occurs in Brazil after the Maria da Penha Law<sup>(3)</sup>.

In England and Wales, for example, moral violence is still considered psychological violence<sup>(17)</sup>. Specifically regarding moral violence, the study reports women have experienced situations of public dishonor, questioning their reputation, mainly related to cases of adultery. In social terms, different perceptions have been observed regarding betrayal for women and men. Since the imperial period in Brazil, adultery has been a reason for the murder of women.

Based on the 1916 Civil Code, divorce was not allowed, because it was against the law, based on the heritage of the medieval canon law that was highly influenced by religious concepts in which marriage was indissoluble, except for the death of a spouse. However, although divorce was not allowed, a couple could separate, ensuring physical separation, but without breaking the marriage bond. Then, a woman's disloyalty was a reason for killing her, considering the impossibility to have a legal definitive marital separation, especially with the excuse of defending the man's honor<sup>(18)</sup>.

However, violence against women is not a result of the impossibility of divorce or separation, since the number of women murdered by their spouses after Law 11.340 is still alarming<sup>(3)</sup>. Despite the development of ethical and legal policies, the influence of a macho culture is still clear, based on male domination and appreciation to the detriment of female inferiority and subservience. In this sense, regarding adultery, at one end men's permissiveness and even their social appreciation due to marital disloyalty are observed, while feminine disapproval and depreciation, questioning women's honor and dignity at the other end.

Considering extramarital relations, this study observed situations of ridicule and humiliation to which women were exposed because of close and public relations of their spouses, also with people from their circle. Because of the embarrassment observed in such situations and the direct impact on the women's self-esteem, this study considered it as psychological violence. Scientific evidence confirms that men's disloyalty is a form of psychological mistreatment to women, which can cause feelings of inferiority, fear, anger, jealousy, and distrust<sup>(13)</sup>.

Regarding sexual intercourse, the interviewees report sexual coercion and/or use of physical force. A study conducted in India indicates that forced sex in marriage is common, and women recognize that, because there is no law for such violation, marital communion constitutes a form of abuse 'legalization'<sup>(19)</sup>. This conduct is considered marital rape, characterized as sexual violence within marriage, practiced by a spouse<sup>(20)</sup>.

In this sense, 11 countries in the world support marital rape in their legislations claiming it as men's right<sup>(21)</sup>, but in Brazil, this type of violence is considered a crime<sup>(3)</sup>. This form of expression is based on a chauvinist behavior and the understanding of sexual intercourse as an obligation within marriage, showing how difficult it is for men and women to recognize sexual violence.

In addition, the interface between sexual and physical violence should be highlighted, as reported by W4, who recognizes sexual violation as physical aggression to her body. A study conducted with 745 women in Hong Kong, China, showed that 75 reported use of physical force or threats by their spouses to make them have sex and 104 reported their spouses used different forms of coercion, other than physical, for the same purpose<sup>(22)</sup>.

Of all expressions of violence, only those involving body injury do not require women to report their spouses<sup>(23)</sup>. For the other forms of violence described in the Maria da Penha Law, the victim has to report her spouse and start a legal proceeding if she wants to see him punished<sup>(3)</sup>. Also, the consequences of physical violence favor the recognition of these issues in health services, although in some situations they remain uncovered due to a lack of investigation by the professionals of the causes of injury and/or non-disclosure by women<sup>(24)</sup>.

Unfortunately, the support to women in situations of marital violence occurs primarily in the biological field, when dealing with injuries or organ dysfunctions<sup>(25)</sup>. The big challenge is when injuries are not visible, which justifies the perception of health professionals to identify subtle situations of violence<sup>(26)</sup>.

This characteristic of hidden violence indicates a context that requires interest and sensibility from health professionals to investigate family and marital relationships and discard suspected domestic violence. In this sense, a study in primary health care centers in Spain highlights the critical role of health professionals in identifying marital violence<sup>(27)</sup>.



In view of the above, health training is required for the recognition and management of these cases, with nursing professionals as essential elements for the identification of cases of violence, and the creation of a support network to address the problem<sup>(25,28)</sup>.

## FINAL CONSIDERATIONS

The women interviewed in this study experience daily episodes of violence, expressed in the forms described in the Maria da Penha Law: property, psychological, moral, sexual and physical violence. Although this study is limited to investigating only one court and the local-regional characteristics of women in the northeastern region of Brazil, the findings are relevant in terms of guiding the identification process of this issue by health professionals.

Therefore, the inclusion of violence, with a focus on its forms of expression in the lives of women, becomes essential in the educational processes, in the areas of academic or continuing education of health professionals, especially in nursing. As elements of the reference team in the Family Health Strategy and, sometimes, in the spaces of health services, nurses are in a favorable position to identify cases of violence, the first step to help women stop this experience. To achieve that, articulations with education, police, legal and social areas are required.

In the Family Health Strategy context, health professionals can also use knowledge of expressions of marital violence to support the educational practices of women and men. This way, they can provide opportunities for reflection on the social construction of gender, responsible for the belief in male dominance and female subservience, which support the survival of marital violence. In the context of the Maria da Penha Law, which is not limited to punitive and preventive actions, such spaces are critical to help men recognize the criminal nature of their actions and support women empowerment by assuming themselves as subjects of their lives.

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