

Femininity Regimes and Domestic Violence: An Analysis of the Legal Recognition of Women in the Brazilian Judicial System

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Abstract

This study aims, through an interdisciplinary literature review, to identify the regimes of femininity present in cases of domestic violence against women within the Brazilian judicial system. Characterized as matrices of intelligibility for moral or legal recognition (or the lack thereof), these regimes operate in a way that conditions credibility, protection, and the production of hierarchies of victimization. Using a qualitative approach, the study is evidence-based and supported by the Consensus tool. In conclusion, it finds that legal discourse, while purporting to be protective, also reproduces gender stereotypes, highlighting the need for legal literacy and anti-discriminatory legal practice grounded in Brazilian legislation.

Keywords

Domestic Violence, Regimes of Femininity, Legal Discourse, Legal Language

1. Introduction

In the Brazilian context, domestic and family violence against women constitutes a structural, multifaceted, and persistent phenomenon, legally recognized under Brazilian Law n. 11.340/2006 (the Maria da Penha Law), which defines it as any action or omission based on gender that causes death, injury, or physical, sexual, psychological, moral, or property-related suffering. This piece of Brazilian legislation represents a milestone in Brazilian law, insofar as it constitutes a recognition of violence as a *continuum* of historical inequalities in gender relations.

However, although there is a robust regulatory framework, institutional studies and data—such as the *Justice in Numbers* report (National Council of Justice of Brazil, 2025)—show that the effectiveness of protection still faces significant ob-

stacles in the day-to-day functioning of the Brazilian judicial system, particularly with regard to the interpretation of facts, the weighing of evidence, and the recognition of the victim.

Part of these studies seek to understand such limitations—whether or not they stem from operational failures or gaps in Brazilian legislation—and also how symbolic structures running through legal discourse shape institutional practices. In this sense, legal discourse can be understood as a language that links symbols, ideas, and bodies, functioning not merely as a set of written texts but as a symbolic system deeply rooted in culture and social communication (Butler, 2018a, 2018b; Baggenstoss et al., 2024; Baggenstoss, 2025).

From this perspective, legal language is not limited to statutory text, since it also involves rhetoric and the use of symbols that transcend literal meaning, as well as professional and institutional practices that influence the perception and effectiveness of legal norms in society (Mootz, 2024; Kriviņš et al., 2025). Law can thus also be perceived culturally, being constituted by and reflecting the mentality, tolerance, and social perceptions of a community, and being shaped according to social, political, and technological contexts (Wagner et al., 2020). Along these lines, law can be understood as a system of signs that constructs normative realities through prescriptions that guide future behavior (Chernigova, 2025), based on social markers that give meaning to people's existence.

Within this linguistic architecture, social categorizations such as gender appear to be reinforced by law, as in the case of the category “woman” and its legal prescriptions promoting rights and protection against violence (Butler, 2018a, 2018b). In this semiotic configuration, law is understood as a normative instance that reinforces a particular ideal of woman through discourses, norms, and practices that reflect and reinforce patriarchal social structures, often limiting women's autonomy and reproducing gender stereotypes. In judicial decisions handed down within the Brazilian judicial system, for example, women who are victims of domestic violence may be represented in a stigmatizing manner, as when alleged infidelity is used to justify or minimize the violence suffered—legitimizing oppression and reinforcing a subordinate feminine identity (Pinto, 2021; Foucault, 2006).

What is or is not understood as a “model” of woman thus produces effects that limit her moral and legal recognition, as well as reducing her possibilities for existence and dignity in the Western world (Honneth, 2003). The legal construction of women's identity can also deny their agency, as occurs in legal narratives that label women who commit crimes against their own children as bad, mad, or sad, reinforcing harmful stereotypes about femininity (Weare, 2017). Specifically in the Brazilian context, Black feminisms and transfeminisms ask “which woman are we talking about?”, denouncing that Brazilian law and public policy tend to take the middle-class white woman as the standard, rendering other experiences invisible (Ribeiro, 2025; Ramos, 2012). Alongside this, there are contemporary efforts to redefine this identity in a more inclusive and plural way, as in India, where

efforts are underway to broaden the legal definition of “woman” and to ensure equal rights at work and protection against violence (Nithyalakshmi et al., 2025).

It is thus suggested that law can function both as an instrument of social control and as a potential space for contesting and reconfiguring women’s identities, thereby characterizing itself as a technology of gender (Baggenstoss, 2025). Moreover, as a technology of gender, law—far from operating as a neutral field—is shown to be crossed by historical, cultural, and symbolic constructions that shape the way subjects are recognized, legitimized, and protected within Brazil’s judicial system (National Council of Justice of Brazil, 2021).

Within this spectrum of social studies, the aim is to better understand which symbolic frameworks are related to the idea of “woman” in the legal sphere, especially within the patterns of intelligibility concerning domestic violence. These frameworks or regimes of femininity can be understood as normative and symbolic structures through which law and other social institutions produce and organize meanings about what it is to “be a woman.” Far from reflecting a natural essence, these regimes function as matrices of intelligibility—that is, implicit criteria that define which forms of feminine existence are recognized as legitimate, protected, or morally acceptable (Butler, 2018a). In this context, figures to be described below—the victim-woman, the caregiver mother, and the transgressive woman—are not mere descriptions of reality but constructions that guide legal practices, institutional decisions, and social expectations, delimiting the ways in which women can appear and be recognized within the Brazilian legal sphere (Butler, 2018a, 2018b; Foucault, 2006; Baggenstoss et al., 2024).

In the Brazilian context, the persistence of high rates of domestic and family violence against women reveals not only a factual problem but also a structural and symbolic one (National Council of Justice of Brazil, 2021), which is the starting point for this study. This means recognizing that Brazil’s legal and institutional systems frequently reproduce gender patterns that influence the interpretation of legal norms, the production of evidence, the weighing of the victim’s word, and the very definition of what is understood as violence.

This study is especially relevant in a country marked by profound social, racial, and gender inequalities, in which women situated at the intersection of racial, socioeconomic, and territorial inequalities may face even more intense barriers to having their claims recognized. The study is therefore justified by the need to critically interrogate the assumptions that guide the operation of the Brazilian judicial system, contributing to the construction of legal practices that are more sensitive to difference, aligned with anti-discriminatory perspectives, and committed to the effectiveness of women’s human rights in Brazil. In addition, investigating the frameworks of intelligibility that underpin these legal practices is essential to understanding the limits and potential of law in confronting this problem. Furthermore, analyzing the legal imaginaries about women makes it possible to identify how certain representations of what it means to be a woman operate as filters that condition access to justice.

This study aims, through an interdisciplinary literature review, to survey the regimes of femininity present in cases of domestic violence against women within Brazil's judicial system. Using a qualitative approach, the study is evidence-based and supported by the Consensus tool. To this end, the study proposes to identify the regimes of femininity produced by legal discourse and how they operate as matrices of intelligibility within the Brazilian judicial system, influencing the recognition, credibility, and protection of women in situations of domestic and family violence, with an emphasis on the production of hierarchies of victimization. The research design, based on a qualitative approach, is structured around a survey of data presented by specialized literature on the central themes of "femininity," "domestic violence," and "law," which were used as descriptors in database searches. The study is thus configured as an interdisciplinary narrative literature review, guided by evidence-based research. It draws on the strategic use of the Consensus tool, a scientific instrument for literature reviews assisted by artificial intelligence and guided by the principles of *evidence-based research*. The review was built using the descriptors mentioned above and, based on the results returned by the tool, additional studies matching the aims of the work were sought using the *snowball* technique, while maintaining the identification of evidence patterns and the classification of results as favorable, contrary, or inconclusive, together with an implicit hierarchization of evidence that gave greater weight to methodologically robust studies.

The mapping of studies is not intended to be exhaustive with respect to the Brazilian context, but rather expands into a dialogue with international scholarship, making it possible to identify similarities and tensions that may contribute to formulating future research agendas and to critical reflection on the Brazilian judicial system. The study thus acknowledges that, having opened this debate, it makes room for further research and seeks to highlight the ambiguity that marks institutional action in the face of domestic violence.

Given the understanding of law as language and as a technology of gender, together with the recognition that domestic violence is embedded in a symbolic structure that conditions the recognition of women within the Brazilian judicial system, it becomes necessary to move from the theoretical dimension to the concrete identification of the mechanisms through which such constructions operate. It is at this point that the regimes of femininity become central, insofar as they materialize, in specific frameworks, the normative expectations that guide legal practices, institutional decisions, and forms of valuing the victim. The studies found in the search described above thus make it possible to identify and analyze the central regimes of femininity; next, in the specific versions of each regime, we present how these symbolic patterns are operationalized within Brazilian law, structuring criteria of legitimacy, credibility, and protection in cases of domestic and family violence.

Regarding the use of Artificial Intelligence tools, it is declared that the generative AI tool Consensus was used—employing a snowballing technique starting

with the term “Regimes of Femininities”—to identify literature findings. Additionally, Claude (Sonnet 5 version, Anthropic) was used during one stage of the manuscript’s preparation, specifically for curating and organizing texts and references previously gathered by the author during the literature review. All content produced with the aid of these tools was reviewed and supervised by the author, who bears full responsibility for the authorship and content presented. Conceptualization, methodology, investigation, project administration, writing of the original draft, and writing review and editing were performed exclusively by the author, without delegating any of these stages to the AI tool.

Methodological Approach and Scope of the Review

For the sake of transparency and replicability of the AI-assisted retrieval process, it is specified that the search was initiated in the Consensus tool using the seed descriptor “Regimes of Femininities”, subsequently expanded through the combined use of the descriptors “femininity”, “domestic violence”, and “law”, without restriction of publication date, language, or country of origin, so as to allow for the broadest possible dialogue between Brazilian and international scholarship. From the results returned by Consensus, the *snowball* technique was applied to identify additional studies cited by, or citing, the initially retrieved works, provided they bore direct relevance to the regimes of femininity under investigation. Consistent with the narrative character of this review, and unlike integrative or systematic reviews, no numerical protocol of eligibility and exclusion criteria, nor a PRISMA-type flow diagram, was adopted; the criterion for inclusion was thematic and theoretical relevance to the object of study, assessed by the author.

Once gathered, the studies were read and classified according to the pattern of evidence they offered in relation to the regimes of femininity identified—favorable, contrary, or inconclusive—and an implicit hierarchization of evidence was adopted, according to which methodologically robust and peer-reviewed studies, as well as those directly addressing the Brazilian judicial system, were given greater interpretive weight than exploratory or opinion-based texts. This classification is qualitative and interpretive, in keeping with the narrative review design, rather than a quantitative count of studies reaching a given conclusion.

It should also be noted, as a limitation of scope, that Brazil-specific empirical legal scholarship on the regimes of femininity remains comparatively incipient. Accordingly, this review draws substantially on international literature to characterize the general dynamics of the regimes of femininity discussed in Section 2, treating that literature as comparative and illustrative rather than as direct evidence of Brazilian judicial practice; wherever a claim refers specifically to the functioning of the Brazilian judicial system, it is anchored, whenever possible, in Brazil-focused sources, particularly official data from the National Council of Justice (National Council of Justice of Brazil, 2021, 2025) and Brazilian legal-empirical studies (Pinto, 2021; Ramos, 2012; Caldeira & De Paula, 2020; Fonseca-Inacarato et al., 2023; Batalha et al., 2023).

2. Central Regimes of Femininity in Law

Critical scholarship shows that law produces meanings about how the woman identified as a victim should be recognized, operating through symbolic frameworks that delimit her legal intelligibility—that is, the understanding and framing of the legal recognition of the person in cases of domestic violence. In this context, the construction of what constitutes the “victim-woman” is not neutral, but is crossed by stereotypes historically associated with femininity—fragility, passivity, dependence, and docility—which, as comparative international literature indicates, tend to restrict her agency and autonomy—a pattern also documented empirically within the Brazilian judicial system by the National Council of Justice (Sitarz, 2025; Baker, 2008; Singh, 2023; National Council of Justice of Brazil, 2021).

Procedural practices reveal the persistence of an idealized and homogeneous model of victim, in which the woman is conceived as essentially vulnerable, incapable of full self-determination, and in need of state guardianship (Sitarz, 2025; Baker, 2008; Singh, 2023). This model, while grounding protective policies, also legitimizes forms of legal paternalism that can result in the limitation of rights, especially when a woman’s autonomy comes into tension with the logic of protection.

As Sitarz (2025), Baker (2008), and Singh (2023) point out, the figure of the ideal victim functions as an implicit criterion of recognition: the closer a woman comes to this standard (submissive, morally deemed adequate, emotionally shaken), the greater the likelihood that her narrative will be validated by the legal system. Conversely, women who display resistance, ambivalence, or agency tend to have their credibility questioned, revealing the normative and exclusionary character of this framework.

This symbolic process is reinforced by discursive practices within the judiciary that mobilize elements of sexual morality as a criterion for judgment. In domestic violence cases, it is not uncommon for the woman’s own conduct to be placed under scrutiny, shifting the focus from the violence suffered to a moral evaluation of the victim (Caldeira & De Paula, 2020; Ribeiro, 2025; Ramos, 2012). References to adultery, “inappropriate” behavior, or an alleged violation of gender expectations operate as mechanisms of indirect blame-shifting, contributing to mitigating the aggressor’s responsibility and to reproducing patriarchal logics within judicial decisions. Pinto (2021), Ramos (2012), and Dayan (2020) show that such discourses are not isolated remnants of a superseded legal past, but practices that remain present, updating the idea of masculine honor and of control over women’s bodies and sexuality as relevant elements for understanding violence.

In discussions of femicide, another layer of this symbolic construction can be observed: the consolidation of the woman as a fatal victim, inserted into a continuous chain of structural violence. Although this framing is fundamental to highlighting the systemic and gendered character of lethal violence against women, it can also, paradoxically, reinforce the woman’s position as a passive object of male

domination. By emphasizing her status as the ultimate target of patriarchal violence, there is a risk of obscuring her agency, her strategies of resistance, and the multiple forms of confrontation that precede the fatal outcome (Caldeira & De Paula, 2020; Ribeiro, 2025; Ramos, 2012).

As Caldeira and De Paula (2020), Ribeiro (2025), and Ramos (2012) indicate, the legal narrative of femicide frequently oscillates between a structural denunciation of violence and the reproduction of a crystallized image of woman as a vulnerable body whose existence is defined by the violence she suffers.

This tension reveals one of the central paradoxes of contemporary law in confronting gender-based violence: while seeking to recognize and protect women as a historically vulnerable group, it ends up reproducing categories that limit their subjectivity and their capacity to act. The construction of the victim-woman, therefore, should not be understood merely as an instrument of protection, but as a device of power that organizes who can be recognized as a legitimate victim and under what conditions moral and legal recognition occurs. **Table 1** presents the central regimes of femininity:

Table 1. Central regimes of femininity.

Femininity framework	Typical legal effect	Sources
Fragile, passive, dependent	Legitimizes guardianship/paternalism and disregards agency	Sitarz, 2025; Baker, 2008; Singh, 2023
Caregiver mother	May reinforce protection, but also idealize sacrifice and guilt	Jarnkvist & Brännström, 2019; Ribeiro, 2025; Caldeira & De Paula, 2020
“Transgressor” (adulteress, prostitute, politicized woman)	Less credibility, more blame-shifting and symbolic violence	Setemy, 2020; Ramos, 2012; Dayan, 2020; Fajrin & Triwijaya, 2019

In light of these central frameworks, studies of women’s narratives and of care provided by specialized services reveal multiple ways of constructing victim identity, including positions of resistance and autonomy that do not fit the ideal, fragile-victim model (Jarnkvist & Brännström, 2019; Barán Attias, 2020).

In situations of domestic violence, Singh (2023) and Gilson (2016) argue for the need for legal approaches that recognize relational vulnerability, proposing a shift from the idea of the “naturally vulnerable woman” toward a structural and universal vulnerability, holding the State and institutions—not only women—responsible for managing risk and violence.

This legal construction of femininity still associates the victim-woman with fragility and moral purity, which underpins both selective protections and practices of blame-shifting—something that can be changed through education about these meanings, recognizing women’s agency and reformulating the notion of vulnerability beyond the idea of the naturally victimized woman.

Contributing to this debate, the following sections detail the specific frameworks of femininity and the legal practices that give them concrete form.

2.1. The Specific Framework of Dependent Femininity

The image of women as passive and dependent is repeatedly institutionalized within laws, public policies, and judicial practices, operating as a genuine criterion of legal intelligibility (Karlo, 2025; Schwöbel-Patel, 2018). Thus, a woman's recognition as a legitimate victim depends, to a large extent, on her adherence to this normative model of femininity, which delimits not only who deserves protection but also the terms on which that protection will be granted. Accordingly, the idea of female dependence is not merely recognized but is simultaneously produced and naturalized by the very institutional structures that should be promoting autonomy and emancipation.

This is a regime of subjectivity production in which vulnerability and passivity are simultaneously presupposed and required for access to rights. In the field of social policy and welfare systems, this logic manifests through the construction of women as needy beneficiaries, whose inclusion in public policy is mediated by a narrative of need and dependence rather than by full recognition of citizenship. As Karlo (2025) points out, the feminization of social welfare implies the organization of a subsystem marked by the association between women and poverty/care within welfare institutions, in which access to benefits is frequently conditioned on demonstrating vulnerability.

This framing reinforces an assistentialist logic that shifts women from the position of rights-holding subjects to that of recipients of protection, often permeated by stigma and mechanisms of control.

In criminal law, especially in domestic violence cases, legal discourses feminize the victim in a way that associates the condition of victimhood with attributes such as passivity, fragility, and docility. Baker (2008) shows that this construction not only shapes how legal practitioners interpret the facts but also affects the subjectivity of women themselves, who come to internalize these expectations through practices of shame, guilt, and self-regulation.

The field of criminal law specifically does not function merely as a mechanism of punishment but as a disciplinary apparatus that produces subjects, shaping behaviors and identities (Foucault, 2006).

As a result, women who do not perform the expected femininity—such as those who fight back against violence, remain in abusive relationships, or do not display suffering in a recognizable way—tend to be seen as less legitimate, which directly influences the credibility of their accounts and the outcome of proceedings (Delgado-Álvarez & Sánchez-Prada, 2022; Baker, 2008; Schwöbel-Patel, 2018).

Although developed within the specific setting of international criminal law, this literature is instructive for the Brazilian context because it isolates, in a particularly explicit form, the same logic of conditional legitimacy that recurs, with local variations, in domestic criminal proceedings, as discussed below. Schwöbel-Patel (2018) argues that, within international criminal law, the figure of the ideal victim takes on even more complex contours. According to her research, the victim recognized by international tribunals is constructed from a combination of vulnerability, depend-

ence, and political harmlessness. The image created is of a victim who must be weak enough not to destabilize geopolitical interests or institutional narratives, and who is frequently represented in a feminized and infantilized manner.

This process reveals that, in this context, femininity may operate as a language through which victimization is institutionally interpreted, linking suffering to passivity while simultaneously depoliticizing experiences of violence. By emptying out the victim's political dimension, international law reinforces a conception that privileges compassion over structural justice. In domestic criminal proceedings within the Brazilian judicial system, this construction becomes particularly evident in the discursive practices of prosecutors and judges. As [Quintana-Navarrete and Fondevila \(2025\)](#) note, women are frequently described as weak, vulnerable, and less dangerous, and are also primarily associated with roles of care and motherhood. This characterization underpins decisions that, under the guise of protection, end up reproducing forms of legal paternalism, limiting women's autonomy and reinforcing their subordinate position. **Table 2** sets out the central effect of this regime, the legal practices that reveal the stereotype, and the sources that characterize it:

Table 2. Regime of the fragile-passive-dependent stereotype.

Element of the stereotype	Legal practices that reveal the stereotype	Sources
Fragility	Emphasis on trauma, psychological harm, "wounded honor" as the essence of the victim	Baker, 2008 ; Ellialtı-Köse, 2024
Passivity	Expectation of inaction, submission; reacting or self-defense breaks the "good victim" image	Delgado-Álvarez & Sánchez-Prada, 2022 ; Baker, 2008 ; Schwöbel-Patel, 2018
Dependence	State guardianship/paternalism; a victim who "needs to be protected" and grateful	Karlo, 2025 ; Quintana-Navarrete & Fondevila, 2025 ; Schwöbel-Patel, 2018 ; Sun, 2024

As specific effects of this image of the passive victim, specialized studies point to the reinforcement of paternalism and the denial of women's agency.

Through paternalism, the idea is reinforced that the State or the judicial system positions itself as a guardian that knows what is best, restricting the choices of women and girls deemed weak and incapable of deciding for themselves, in the name of protection ([Karlo, 2025](#); [Mahajan & Fried, 2024](#); [Anderson et al., 2023](#); [Sun, 2024](#)). With respect to the denial of women's agency, studies highlight legal narratives that construct singular identities (mad, bad, sad) that present women as pathological, weak, and deserving of pity—erasing their capacity for choice and action, even when they engage in acts that defy the expected femininity ([Weare, 2017](#); [Baker, 2008](#)).

As a corollary, a woman who does not perform this fragility (for example, one who reacts in self-defense or shows anger or firmness) is viewed with more hostility and as less fragile, which reduces empathy toward her and can undermine

her credibility as a victim (Delgado-Álvarez & Sánchez-Prada, 2022; Mariano, 2026; Schwöbel-Patel, 2018).

Like a mold, the regime of fragility and dependence works as follows: whoever fits it is recognized and “protected,” but under guardianship; whoever does not fit it is suspected, deemed less credible, or even punished. This construction keeps women in the position of objects of care rather than subjects of rights, and profoundly limits the ways in which femininity and victimization can appear before the law. This framework is generally allied with the next regime: that of maternal femininity.

This regime of dependent femininity, moreover, is not evenly distributed among women. Because the presumption of fragility that grants protection is itself socially coded, Black, poor, and peripheral women are disproportionately exposed to institutional paternalism or, conversely, to having their vulnerability discounted altogether, converging with the critique, raised by Brazilian Black feminisms and transfeminisms, that legal and public-policy discourse tends to take the middle-class white woman as its implicit standard of femininity (Ribeiro, 2025; Ramos, 2012). The regime of fragility and dependence, in other words, intersects with race, class, and territory to determine who is granted protective guardianship and who is left without recognition altogether.

2.2. The Specific Framework of Maternal Femininity

The institutional representation of femininity is also frequently anchored in the figure of mothering, its meaning idealized in the image of the caregiver mother—the woman whose central identity is represented as caring for and sacrificing herself for her offspring. This image is valued within the legal field, even though it functions as a rigid normative model with ambiguous effects. Motherhood is, in this context, constructed as a natural, almost ontological vocation, associated with an ethics of care marked by sacrifice and self-abnegation, rooted in the myth of maternal love (Batalha et al., 2023).

As discussed by Batalha et al. (2023), the myth of maternal love sustains the idea that the bond between mother and child is necessarily unconditional, instinctive, and all-encompassing, reducing the figure of the woman to motherhood. This narrative naturalizes practices of personal renunciation and renders invisible the socially constructed character of motherhood, obscuring the fact that caregiving is an activity historically assigned to women through processes of socialization and the sexual division of labor. By turning care into destiny, law and public policy tend to disregard motherhood as a plural experience, shaped by diverse material, emotional, and contextual conditions.

The ideal model of the “true mother” is one who displays specific moral attributes: being fully dedicated to her children, emotionally available, patient, understanding, and, above all, capable of enduring hardship without question. In addition, the image of the mother who suffers in silence functions as a disciplinary dimension of this construction, insofar as it turns suffering into virtue and delegitimizes forms of resistance, exhaustion, or ambivalence (Fonseca-Inacarato et al., 2023).

Within the Brazilian judicial system, these representations take on concrete effects: in practices such as family mediation, decisions about custody, visitation, and parental responsibilities are frequently guided by the premise that the mother is the obvious, natural caregiver of the child. [Fonseca-Inacarato et al. \(2023\)](#) show that legal practitioners tend to biologize caregiving, treating mothering as an automatic extension of the feminine condition, while fatherhood is seen as accessory or complementary. This asymmetry reinforces the exclusive attribution of responsibility to women for children's well-being and limits the possibility of recognizing more egalitarian family arrangements.

In the field of domestic violence, the model of the ideal caregiver mother operates as a criterion for the moral evaluation of women: mothers who do not match this standard (because they prioritize work, express exhaustion, do not wish to be mothers, or adopt unconventional caregiving styles) may be perceived as inadequate or negligent—which shapes the effect of decisions on custody, credibility, and accountability in criminal proceedings, even when the woman herself is in a situation of violence ([César et al., 2020](#); [Pinheiro et al., 2021](#)).

There is, therefore, an intersection between gender, morality, and law that transforms motherhood into a field of surveillance and regulation. This framework reveals a fundamental ambivalence: while legal discourse values maternal care as essential to protecting childhood, it also reinforces women's overload and restricts their autonomy by binding them to a rigid normative ideal. Within certain legal and social arrangements, motherhood, in this sense, ceases to be one possibility among other forms of feminine existence and instead may function as an identity imperative, whose non-conformity can entail symbolic and material sanctions. [Table 3](#) sets out the central effect of this regime, the legal practices that reveal the stereotype, and the sources that describe it:

Table 3. Main effects of the caregiver-mother norm.

Central effect	Legal practices that reveal the stereotype	Sources
Mother as the primary and “irreplaceable” caregiver	Decisions, discourse, and media treat the mother as the center of care and the father as a mere “helper,” even under more egalitarian leave policies	César et al., 2020 ; Fonseca-Inacarato et al., 2023
Demand for total self-sacrifice	Mothers who deprioritize their health and career in favor of motherhood are valued, reinforcing the ideal of exclusive dedication	César et al., 2020 ; Pinheiro et al., 2021
Penalization of the “mother who does not properly care”	Women who do not follow the sacrificial ideal are seen as “bad mothers,” abject, and deserving of punishment by the judicial system (e.g., custody and visitation proceedings)	Batalha et al., 2023 ; Fonseca-Inacarato et al., 2023

Victimization bears a close relationship to the construction of women's vulnerability. For example, the institutional figure of the caregiver mother is presumed to be morally good, self-sacrificing, and vulnerable, which can facilitate certain legal recognitions (leave, social protection, preference in custody)—but at the cost

of keeping her locked into a single role (Batalha et al., 2023; Oliveira & Bastos, 2017; Nascimento & Bôas, 2016). Even when this mother is overburdened (for example, caring for a child with cancer), studies show intense physical, emotional, financial, social, and moral strain, yet the social expectation remains that she continue to be an exemplary caregiver (Pinheiro et al., 2021).

From this, it becomes clear that the idealization of maternal care reinforces the idea that she alone bears exclusive responsibility for children's well-being, normalizing the "double shift" and relieving the State and men of responsibility for providing care (Batalha et al., 2023; César et al., 2020; Fonseca-Inacarato et al., 2023; Wirotomo et al., 2025).

In this ambivalence, on the one hand, family law, labor law, and human rights law recognize the importance of the mother-child bond and create specific rights (leave, maternity protection, a state duty to support this relationship) (Oliveira & Bastos, 2017; Melo & Costa, 2025; Nascimento & Bôas, 2016); on the other hand, when this caregiver mother fails, resists, or deviates (does not prioritize the child, maintains a professional life, refuses certain sacrifices), she is quickly reclassified as a transgressive mother, suffering a loss of credibility and moral and legal sanctions (for example, in custody disputes) (Batalha et al., 2023; Fonseca-Inacarato et al., 2023; Murphy, 1998; Rodríguez-Garrido et al., 2024).

This regime of femininity produces an ideal femininity centered on care, sacrifice, and permanent availability. Psychologically, it conditions women so that their attention must be directed entirely toward others; thus, the idea of self-care is inadvertently transferred onto the figure of another, underpinning the paternalism mentioned in the previous section.

This regime shapes policies, judicial decisions, and social expectations: while it legitimizes certain rights and protections, it also reinforces the overload, blame, and control placed on women—especially when they fail to match the model of the perfect mother, as is the case of the women recognized within the regime discussed next.

The maternal-femininity regime is likewise crossed by race and class. Black and low-income mothers, subject to harsher institutional scrutiny and less readily presumed to be adequate caregivers, are more frequently reclassified as negligent or unfit under the same standard that idealizes the self-sacrificing mother, so that the caregiver-mother norm operates not only as a gendered but also as a racialized and class-based criterion of legal recognition (Ribeiro, 2025). This dimension compounds, rather than replaces, the effects on domestic-violence proceedings described above, since a mother assessed as inadequate is simultaneously more exposed to having her account of violence discounted.

2.3. The Specific Framework of Transgressive Femininity

The three figures examined in this subsection—the adulteress, the prostitute, and the politicized woman—are considered together because, as shown toward the end of this section, each supplies part of the discrediting vocabulary through which a woman's credibility is challenged in domestic-violence proceedings whenever her

conduct departs from the ideal-victim standard. The image of the transgressive woman is one of the most revealing axes of the power dynamics that run through the legal and social construction of femininity, since it shows that law not only protects certain models of women but also produces and sanctions those who escape normative standards. In the literature, the figures that appear as transgressors are the adulteress, the prostitute, and the politicized woman.

These are not merely descriptive categories, but discursive positions that condense social expectations and anxieties surrounding women's autonomy, particularly with respect to the body, sexuality, and participation in public life.

The figure of the adulteress historically occupies a paradigmatic place within this regime of control, since she directly challenges the structure of monogamous marriage, which symbolizes a central institution for the organization of the family, inheritance, and the patriarchal social order itself (Faulkner, 2019; Reilly, 2021).

There is, in this, a moral condemnation of women's infidelity that relates not only to the breach of a marital pact but is mobilized as a threat to social stability, insofar as it calls into question certainty of paternity, the transmission of property, and control over women's sexuality. As Reilly (2021) observes, women's adultery has repeatedly been treated as a serious moral deviation, often punished more severely than men's adultery, revealing a structural asymmetry in the regulation of sexuality.

The figure of the prostitute, as historically constructed in legal and social discourse, in turn, represents perhaps the most explicit form of transgression against norms of controlled sexuality, insofar as she dissociates sex, affection, and reproduction, while also introducing an economic dimension into the management of her own body (Walkowitz, 2016; Vuolajärvi, 2018; Wagenaar & Altink, 2012). This figure has historically been regulated through ambiguous policies that oscillate between repression, tolerance, and regulation, reflecting moral, economic, and political disputes.

Walkowitz (2016), Vuolajärvi (2018), and Wagenaar and Altink (2012) note that contemporary debate on prostitution reveals a central tension between punitive approaches—such as the Nordic model, which criminalizes clients on the grounds of combating exploitation—and human-rights-based perspectives, which advocate decriminalization and the protection of all the women. However, regardless of the model adopted, the figure of the prostitute remains marked by strong social stigma, frequently constructed as a symbol of moral degradation, deviance, and danger. This stigmatization serves a broader disciplinary function, reinforcing the limits of acceptable sexuality for women and operating as a negative counterpoint to the figure of the respectable woman, especially the caregiver mother (Walkowitz, 2016; Vuolajärvi, 2018; Wagenaar & Altink, 2012; Foucault, 2021).

Moreover, as Grohs (2019), Açıkalın (2021), and García and Gillis (2018) point out, policies directed at prostitution frequently combine discourses of protection with practices of control, resulting in interventions that, under the pretext of safeguarding women, end up restricting their autonomy and reinforcing their marginalization. The figure of the prostitute, in this sense, is simultaneously constructed as both victim and transgressor within institutional narrative: a victim of exploi-

tation, but also an agent of a sexuality deemed deviant—which justifies her constant surveillance.

The figure of the “politicized woman”, as constructed as transgressive by normative legal and social discourses, in turn, introduces a distinct but equally disruptive dimension of transgression: beyond knowledge of and strategic movement through discriminatory spheres, it demonstrates the active occupation of the public sphere and the explicit contestation of power structures (Reilly, 2021).

Unlike the adulteress and the prostitute, whose transgression is more directly tied to sexuality, the politicized woman challenges the divide between public and private, claiming voice, rights, and participation. This figure is frequently perceived as subversive, becoming the target of delegitimizing strategies ranging from moral disqualification to symbolic and material violence. Reilly (2021) observes that women who engage politically, especially around feminist agendas, are often labeled “radical,” “maladjusted,” or “threatening”—evidence of the persistence of an order that associates femininity with moderation, discretion, and submission. **Table 4** presents the central effect of this regime, the legal practices that reveal the stereotype, and the sources:

Table 4. Main effects of the transgressive-woman norm.

Central effect	Legal practices that reveal the stereotype	Sources
Woman as a threat to moral and social order	Legal discourse and decisions associate women who break norms (e.g., adulteresses, sexually autonomous women) with family and social disorder, reinforcing control over female sexuality and legitimizing moralizing state interventions	Faulkner, 2019; Reilly, 2021; Grohs, 2019; García & Gillis, 2018
Stigmatization of female sexuality (prostitute)	Public policy and criminal practice oscillate between criminalization, regulation, and guardianship, treating the figure of the prostitute simultaneously as victim and agent of deviance, reinforcing stigma and institutional control over her body	Walkowitz, 2016; Vuolajärvi, 2018; Wagenaar & Altink, 2012
Delegitimization of female autonomy	Women who exercise sexual freedom, refuse marital norms, or break traditional roles have their credibility questioned in judicial proceedings (e.g., domestic violence, custody), being seen as less “respectable”	Reilly, 2021; Açıkalın, 2021; Ding, 2025
Production of the woman “out of place”	Institutional discourse constructs the transgressor as inadequate, immoral, or dangerous, operating as a counterpoint to the “respectable” woman (mother/victim), reinforcing the normative boundaries of femininity	Ding, 2025; Walkowitz, 2016; Grohs, 2019
Political control of the politicized woman	Politically engaged women are portrayed as radical or subversive, subject to symbolic delegitimization, surveillance, and, in certain contexts, institutional repression	Reilly, 2021
Symbolic and institutional punishment	Female transgression results in formal and informal sanctions: reduced access to justice, unfavorable decisions, institutional violence, and social marginalization	Açıkalın, 2021; García & Gillis, 2018; Ding, 2025

What unites these different figures of transgressive femininity is their shared position of exteriority in relation to the normative model of femininity, centered on passivity, domesticity, and the caregiving role. They are constructed as “out of place”—as bodies and subjectivities that exceed the limits of the acceptable and therefore need to be regulated, contained, or punished. Ding (2025), Reilly (2021), and Walkowitz (2016) point out that this production of transgression serves a structuring function: by stigmatizing certain women, the system reinforces, by contrast, the ideal of normative femininity, delimiting the contours of what is socially and legally recognized as legitimate.

In the context of domestic violence, framing a woman as a transgressor operates as a mechanism for delegitimizing her narrative, placing her within a field of suspicion that undermines her credibility. By straying from the model of the ideal victim (passive, morally adequate, and conforming to gender norms), her conduct—especially with regard to sexuality, autonomy, or remaining in the relationship—comes to be mobilized as an indirect criterion of evaluation, shifting the focus from the violence to her alleged inadequacy (Grohs, 2019; García & Gillis, 2018).

Transgression, then, designates not merely a behavior but a symbolic framework that authorizes the relativization of violence and, at times, the inversion of responsibility. This shows that credibility within the Brazilian judicial system is normatively conditioned, such that women who fall outside the ideal of respectability are more easily discredited. As a result, the regime of transgressive femininity contributes to producing inequalities in access to justice and to reproducing institutional violence, by shaping which women are more readily recognized as deserving of protection.

This constitutive process of symbols of femininity reveals that transgression is not an intrinsic quality of certain women, but a relational category, produced according to norms that define what is considered adequate within a discriminatory system, in which violence is wielded as a form of enforcing docility and obedience. Here, it becomes clear that the transgressive woman is less someone who actually violates rules and more someone who exposes the contingent, historical, and political character of those rules. By challenging the naturalization of obedient femininity, these figures make visible the mechanisms of control that sustain the gender order.

This framework of the transgressive woman brings together gender, sexuality, and political power in a field of contestation in which distinct projects of society confront one another: on one side, the maintenance of an order based on the regulation of bodies and gender hierarchy; on the other, the affirmation of women’s autonomy, the plurality of experiences, and the freedom of self-determination.

The way the law deals with these figures—whether through punishment, guardianship, or recognition—reveals not only its limits but also its possibilities for transformation; and it is at this point that the present study situates itself.

3. Implications and Effects of the Regimes of Femininity for the Brazilian Judicial System

The frameworks of femininity (victim-woman, caregiver mother, and transgressive woman), as they operate within the functioning of the Brazilian judicial system, are not limited to producing isolated stereotypes; rather, they configure a structured regime of legal recognition whose effects compromise the effectiveness of protection for women. These regimes operate as normative filters that organize who can be recognized as a rights-holding subject and under what conditions that recognition materializes, revealing that access to justice in Brazil is mediated by implicit criteria of conformity to gender standards.

One of the most significant effects of this process is the production of hierarchies of victimization, in which some women are more readily recognized as legitimate victims. As shown by Baker (2008), Sitarz (2025), and Singh (2023), the figure of the ideal victim functions as an implicit parameter of validation, privileging women who come close to a model of femininity that is passive, morally adequate, and emotionally fragile. Conversely, those who depart from this standard—such as women who are sexually autonomous, politically engaged, subjected to racial discrimination, or who do not immediately break off from the aggressor—tend to have their status as victims questioned or relativized. This hierarchization is not merely symbolic: it is directly implicated in judicial decisions, the granting of protective measures, and the very conduct of investigations, revealing that, according to the literature reviewed, legal protection within the Brazilian judicial system may not be distributed equitably, but conditioned on conformity with normative expectations (National Council of Justice of Brazil, 2021).

Associated with this phenomenon is the moralization of evidence, insofar as the victim's credibility ceases to be assessed primarily on the basis of the consistency of her account or the materiality of the facts, and instead comes to depend on her conformity to social standards of behavior. Pinto (2021), Ramos (2012), and Dayan (2020) show that, in cases of domestic and gender-based violence, elements such as a woman's sexual life, romantic history, and moral conduct are frequently mobilized as indirect criteria of evidentiary evaluation. This shift compromises fundamental principles of Brazilian criminal procedure, such as impartiality, the requirement that the victim's account be assessed on the basis of legally relevant evidence rather than gendered assumptions in crimes that are difficult to prove, and the centrality of legally relevant facts. By turning morality into an evidentiary criterion, certain judicial practices in Brazil may reinforce gender stereotypes and introduce biases that undermine the pursuit of procedural truth.

Another structural effect is institutional revictimization, which occurs when a woman, in seeking protection, is subjected to new forms of violence within the judicial system itself. This revictimization manifests through discursive and procedural practices that expose the victim to moral judgment, invasive questioning about her personal life, and systematic distrust of her account. As Fonseca-Inacarato et al. (2023) and Batalha et al. (2023) point out, these practices are deeply

linked to the gender stereotypes that inform institutional action, especially when the woman does not conform to the model of the good victim or the good mother. In this context, judicial proceedings cease to be a space of protection and instead function as a mechanism for reproducing symbolic violence, in which the victim is held responsible, directly or indirectly, for the violence she suffered.

Moreover, these dynamics contribute to the reproduction and deepening of gender inequalities within the Brazilian judicial system. The intersection between the regimes of femininity and social markers such as race, class, and sexuality intensifies these inequalities, meaning that women situated at the intersection of racial, socioeconomic, territorial, and sexuality-related inequalities may face additional barriers to having their claims recognized. As [Ding \(2025\)](#), [Grohs \(2019\)](#), and [García and Gillis \(2018\)](#) suggest, the figure of the transgressive woman plays a central role in this process, functioning as a category of exclusion that negatively delimits who is not deemed worthy of protection. Thus, the literature reviewed suggests that certain institutional practices within the Brazilian judicial system not only reflect pre-existing social inequalities but may also contribute to their reproduction, by operating with selective criteria of recognition.

Finally, these effects reveal a fundamental paradox: the same legal system that purports to protect women against gender-based violence can, at the same time, reproduce the symbolic structures that sustain that violence. Protection, in this sense, becomes conditional, selective, and, at times, exclusionary.

4. Concluding Remarks

The analysis developed from the studies gathered here makes it possible to affirm that the regimes of femininity operate as matrices of intelligibility that structure the functioning of the Brazilian judicial system, decisively influencing the recognition, credibility, and protection of women in situations of domestic violence. Far from constituting a neutral field, therefore, this analysis shows how legal practice reveals law as a technology of gender, producing normative categories that delimit who can be recognized as a legitimate victim and under what conditions that recognition takes effect.

At the outset, it should be reinforced that this study was not aimed at formulating definitive conclusions, but rather at making explicit the ambivalences that run through the operation of Brazil's judicial system in confronting domestic violence, highlighting its limits and contradictions. At the same time, the study sought to underscore the pressing need for training legal practitioners, particularly with respect to incorporating anti-discriminatory approaches that are sensitive to the plurality of women's experiences, as a condition for the effectiveness of legal recognition and protection.

Based on the regimes of femininity identified in the literature reviewed (victim-woman, caregiver mother, and transgressive woman), it is possible to identify how implicit criteria operate within the Brazilian judicial system, differentially shaping which women are more readily recognized as legitimate victims. By privileging an

ideal model based on passivity and morality, these regimes produce hierarchies of victimization that exclude those who do not fit this pattern. These regimes also directly influence procedural dynamics, particularly through the moralization of evidence and the selective assessment of credibility, shifting the focus from the violence to the victim's conduct and generating institutional revictimization. Moreover, they are crossed by markers such as race, class, and sexuality, which intensifies inequalities in access to justice and marginalizes women who diverge from the dominant model of femininity.

In light of this, it becomes clear that the limits of law in confronting domestic violence stem not only from regulatory gaps, but from the persistence of symbolic structures that condition the application of the very norms meant to address it. Herein lies the ambiguity of Brazil's legal system: the same system that purports to protect women is also responsible for reproducing the patterns that restrict their recognition as rights-holding subjects.

As a horizon for transformation proposed here, there is a pressing need to displace these regimes of femininity through education grounded in a critical, anti-discriminatory legal approach capable of recognizing the plurality of women's experiences and reformulating the notion of vulnerability in relational and structural terms. This entails the challenge and effort of overcoming idealized models of the victim, incorporating intersectional perspectives, and promoting institutional practices committed not only to formal protection, but to the effective guarantee of access to justice and full recognition of women in their diversity, within the Brazilian legal and judicial system.

Author Contributions

Conceptualization, methodology, investigation, project administration, writing of the original draft, and writing review and editing were performed exclusively by the author, without delegating any of these stages to the AI tools used.

Conflicts of Interest

The author declares no conflicts of interest regarding the publication of this paper.

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