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TO BE A WOMAN IN LATIN AMERICA

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TO BE A WOMAN IN LATIN AMERICA

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A capstone project submitted for Graduation with University Honors

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ABSTRACT

Gender disparities between men and women have deep historical roots. In present day Mexico and Brazil, these disparities follow women all the way to death. The female murder rate in these two countries far surpasses that of men, and my research question is: WHY? Case after case there has been very little accountability done to the murderers of these women, and there has been no progress in preventing the murder rate as it has been climbing. The female murder rate has a name, and this is known as femicide. Women are at risk of falling victim to this crime every single day. The daily lives of women in Latin American countries are being tampered with the fear of not being able to see their loved ones the next day, or to be unable to continue experiencing their lives. Because of this, I want to examine why the legal system has allowed the murder rates in Mexico and Brazil continue to rise each year. In 2022, Brazil was the number one country with the highest rate of Femicides in Latin America, Mexico was also in the top ten. I will use research by historians, political scientists, legal scholars, and journalists as well as crime statistics to explore the explanations that have been proposed and understand why this keeps happening and is getting worse.

ACKNOWLEDGMENT

I would like to express my gratitude to my faculty mentors, Professor Levy and Christella for easing my anxiety with my Capstone Project and providing me with reliable feedback. Despite my topic being what we deem a “wicked problem”, both of my mentors provided me with the inspiration and guidance that I needed when it came to discussing Femicide, and the significance of researching about it. This topic is a heavy one to discuss and examine because it is an ongoing problem. I would also like to express my gratitude towards Marvin Perez De Pablo for always being my audience and peer to brainstorm with before completing my research. Lastly, I would like to express my gratitude towards the University Honors Program and its community that has provided a positive environment that allowed me to grow in academia and many other Honors students who have remained committed to their research.

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*In memory of all the women who fell victim to Femicide and deserved to be able to continue their
lives.*

INTRODUCTION

! Ni Una Más!

Debanhi Susana Escobar was an 18-year-old law student at the University of Nuevo Leon in Monterrey, Mexico. Before her disappearance, Ms. Escobar joined many to march and protest the Gender Violence towards women in Mexico. Gender Violence has been a notable trend, especially on social media, where cases are posted and bring attention to what is occurring, and in this case, the women in Mexico demonstrating against Gender Violence in Mexico because they were simply fed up with the fact that victims were not getting the justice they deserved. On Friday, April 8th, 2022, Debanhi Susana Escobar was last seen at a house party in Nueva Castilla after she had gotten into an argument with one of her friends. Her friends had called her a “trusted contact”¹ to pick her up and drive her home safely, but her safety was not ensured that night. She left the house party with said “trusted contact” called, Jesús, and during their drive back, Ms. Escobar exited the vehicle. She was left stranded on Highway 85, a highway that connects Monterrey and an area known as Nuevo Laredo, which is headed up north. The last sighting of her was a photo taken by the taxi driver, at 5am on Saturday Morning.

Ms. Escobar was filmed on one of the security cameras in a nearby motel. It was noted that she was last seen on the footage entering the property of Alcosa Transportes Internationales, a trucking company. Her body was found two weeks later, on Thursday April 22nd, 2022, in an underground water tank of the very motel, Motel Nueva Castilla, that captured footage of her

¹ Justin Vallejo, Everything we know about the murder of Debanhi Escobar, 18-year-old dumped in Mexico cistern, Independent, 25 April 2022, pg 1.

walking out of the taxi. Why did it take so long? Authorities had searched the area four times, but were at a loss, until the smell of her decomposing body had alerted the motel staff members.

For two weeks her body had been submerged in that water tank, two weeks her family was worried, and praying that she would be found; her body was unrecognizable when they found her due to how long she remained in that water tank. She was identified due to the clothes she was last seen wearing and her crucifix necklace that she wore.

Ms. Escobar had suffered from a blow to the skull, that was stated by the Prosecutor of Nuevo León, Gustavo Adolfo Guerrero. Her father had added that she had also been beaten by her murderer as well as strangled. Yet, the Attorney General's Office had decided to conclude that Debanhi Susana Escobar had "drowned". Drowned? She suffered a blow to the skull, had been beaten and strangled, yet she had "drowned"? This is the reality of the aftermath of a Femicide; blaming the victim for her untimely, cruel death.

Femicide is defined as the act of killing a woman simply due to her gender. It is a form of Gender Violence and Discrimination. In these instances, many of the victims are numbers added to the Femicide rate across the globe. These women are mourned and remembered for who they were in their lives, what they strived for, and what could have been done to prevent their untimely deaths from occurring. Where is their justice? Where is the accountability and punishment that their murderers deserve? Why is the Justice System failing these victims? These questions that are consistently raised as each femicide is documented with the fact that crimes against women are not prioritized. Because of this, there has been a manipulation with the recorded Femicides in Latin America. Not all Femicides are recorded or known, even then, these deaths are often recorded as an "accident" as something entirely different from what happened. This is evident with the case of Debanhi Susana Escobar, a young woman who did not deserve

what had happened to her. None of these victims do, yet they are failed by the very institutions that promote safety and justice.

FEMICIDE

Femicide is a form of gender violence in which a woman is murdered based on her gender. This is a form of homicide where the violence is extreme and is misogynistic. In Latin America, nine out of twelve women are at risk of a femicide. That is most of the female population, meaning that most of the women are at risk of becoming a victim to a violent act, and possibly being unable to live the next day. Because most of the disappearances result in death, and this is evident with the case of Mónica Citlalli Díaz who disappeared after she left her home to go to work. Díaz's disappearance was an immediate red flag for her family, friends, and coworkers, this was due to them knowing that she loved her job, and not showing up was a concern. It became even bigger as four days had passed. Those who were worried about her had blocked the street in front of the school that Díaz worked for as an effort for law enforcement to conduct a proper investigation and provided answers of why she had never step foot into the school. She was later found on a highway two days after that demonstration.

In an interview, María da Penha, a victim of domestic abuse and advocator against gender violence had commented on the impunity and lack of action by policymakers. She had said that “it took eight years for the capitals in Brazil to create the right structures to support the law because the administrators are sexist, they don't care about it.”² This presents the idea that the

² Sueann Caulfield, *Global Feminisms Comparative Case Studies of Women's Activism and Scholarship*, University of Michigan, 2015 Pg 21.

policymakers in Brazil simply did not care for the implementation of her law, which would provide further assistance for victims of domestic abuse.

Latin America has been condemned by international organizations, the organizations being the United Nations Humans Rights Office and the Inter-American Court of Human Rights. These organizations have condemned the region for the impunity in which offenders have, and because of this, these two organizations have created protocols for the governments to adopt and follow. However, it is crucial to keep in mind that these protocols and law implementations that have served to be a model for Latin America to handle femicide cases are not necessarily used.

While efforts such as the Law of Femicide created in 2015, María da Penha Law, and Law 14.188, which was created recently in 2021, they are not properly implemented. Which is an unfortunate truth.

In addition to this, the femicide rate that is “documented” is not the actual rate this is evident in the case of Brazil. For example, it is mentioned that “the official government data from 1980 to 2019 were 28.62 percent lower than the actual number of femicide victims.”³ Meaning that the numbers are manipulated, and it does not help that the government fails to use proper measuring. Also, it is apparent that these deaths are classified as something entirely off from what they actually are, this is evident with the case of Debanhi Susana Escobar where they had attempted to come up with a theory that she had fallen into the water tank that they found her in and she had “drowned”, when in reality that was not the case. Femicide in Latin America is an important enigma. Most of the cases are not prioritized because they do not have the same advocacy as other cases where the victim got justice. For the region to be internationally

³ Nicolette Reale, Femicide in Brazil: Inter-American Condemnation, Harvard International Review, July 2023,pg 1.

condemned for the lack of justice and accountability displays how crucial it is that these cases are noticed, and that the efforts of citizens that care about this crimes goes unnoticed.

MARÍA DA PENHA; HER STORY, HER LAW

María da Penha was a biopharmaceutic who was shot in her sleep in May 1983 by her husband. This attempt led to be rushed to the hospital where, she would luckily survive the murder attempt, but would be paraplegic for the rest of her life. This first attempt would not prevent her husband from trying to murder her once more, as he had attempted to electrocute her two weeks after shooting her. So, what would be the result after this incident? Her husband would be a free man, while Penha was struggling to not only adapt to a new lifestyle but would also live in fear and disappointment as her attempt to file to the courts would last almost two decades. The first trial she had undergo took eight years, but it slowly grabbed the attention of the locals that lived in her town to the point that an organization was created; Ceará Council of Women's Rights. This was the start for the pursuit of justice for María da Penha by those who were local, in 1991, it was decided that her husband was found guilty of domestic violence and attempts he had conducted on Penha, yet he walked out the courthouse as a free man. Why? Because of an appeal, this would cause Penha to write her book, *Sobrevivi... Posso Contar* which was published in 1994. This book would have the power to garner the attention of the Center for Justice and International Law, who would ask Penha to denounce Brazil for its failure to provide justice and inability to hold her aggressor accountable for his actions in the Organization of the American States.

This would cause there to be a second trial, a second judgement, and a second chance for justice to be served. Maria da Penha's aggressor would be found guilty once more but would receive another appeal in 1996. This prompted her to write articles, to share her story, and to fight for her justice. Due to the ruling and appeals that allowed Maria da Penha's aggressor to remain a freeman walking while she rarely left her home, this caused there to be pressure on Brazil for the inability of ensuring the safety of a victim, and the lack of accountability from the laws in the nation already. In an interview, with Sueann Caulfield, recorded in, *Global Feminisms Comparative Case Studies of Women's Activism and Scholarship*, Penha had expressed that "Brazil was condemned, it was sentenced internationally to change the country's laws so that cases of impunity ceased to exist, because there was a lot of impunity for attackers."⁴ This pressure alongside with the fact that Penha's case would soon no longer be valid would prompt there to be a need of swift action. Because of this, her aggressor would be sent to jail, and would later be imprisoned in Ceará for two years. In a petition that Penha had filled out and sent to the Inter-American Commission Human Rights, an organization of the American States, it is added in the report that "the petition maintains that the State has condoned this situation, since, for more than 15 years, it has failed to take the effective measures required to prosecute and punish the aggressor, despite repeated complaints."⁵ Penha's efforts were apparent to the point that she was reaching out the different Human Rights organizations that would be able to provide her with the assistance and advocacy that she needed. While her aggressor was imprisoned, she had to remain in her home to ensure her safety was not violated,

⁴ Sueann Caulfield, *Global Feminisms Comparative Case Studies of Women's Activism and Scholarship*, University of Michigan, 2015, P.12

⁵ Inter-American Commission on Human Rights Report N. 54/01, Case 12.051, Maria Da Penha Maia Fernandes, April 2001, P. 1.

which is an unfair predicament. However, in 2006, a law would be created as an act to condemn gender-based violence in Brazil, this law would be Maria da Penha Law.

So, what exactly would Maria da Penha law do? This law would classify and define domestic violence against women, but also family violence. By defining these forms of violence against women attributes such as “physical, psychological, sexual, patrimonial, and oral”⁶ would be included in the law, it would provide a wider scope into violence against women. This law would provide the victim with information of when her aggressor would enter prison and exit, in addition to this, she would receive a rundown on procedural acts with legal presence whether it is an attorney or public defender. This law would also provide a “safety wall” that prevents the victim from delivering the legal notice to her abuse to not only ensure her safety, but also take the burden away in order to prevent emotional distress. It states, that “Paragraph 1. The public power shall develop policies aimed at guaranteeing the human rights of women in the scope of the domestic and family relations, with a view to protecting them against all forms of negligence, discrimination, exploitation, violence, cruelty, and oppression”⁷. This portion from the law would ensure that the human rights of women would be prioritized, alongside implementing more legal presence, and doing more to serve victims and provide them with the justice that they deserve. In Penha’s case, her justice was long overdue, yet the impunity in Brazil displayed why this country has been at the top in Latin America to have the most Femicide cases.

The significance of Maria da Penha’s story is to highlight that one of the victims of domestic abuse and femicide had survived it. Her law was created to bring visibility of the

⁶ Maria da Penha, Maria da Penha Law, Law n. 11. 340, Special Secretariat for Women’s Policies, 2006Pg 7.

⁷ Maria da Penha, Maria da Penha Law, Law n. 11. 340, Special Secretariat for Women’s Policies, 2006, pg 10.

violence against women and how to combat against it. She lives to this very day as an activist and a voice against Gender Violence and Femicide. Even though her aggressor had been free despite being guilty of his cruelty and crime, she did not regress, but rather she chose to write about her experience and advocate for herself. This sense of bravery and strength shows that victims are the biggest advocates to their cause, for what they had experienced, and what they want to avoid for others to protect them from it. Brazil had been condemned for the lack of justice and action, but this country displays that “the impunity that stems from the inaction, insufficiency, or complicity of state institutions with gender inequality contributes to”⁸ the reality that femicides are not considered to be prioritized crimes to be investigated and solved. Penha’s story is one that contributes to the impunity and how Brazil handles femicides. It was simply unfair for her to withstand the process of waiting for there to be some sort of justice for what she had endured as a victim. It proves that Brazil does not prioritize femicide, and why the nation has been the number one country in Latin America to have the most femicides since 2022.

MEXICO AT THE TOP

In Mexico in the year 2022, “the country saw more than 1,000 femicides last year-second only to Brazil in Latin America”⁹. This large number of femicides that the nation had seen does not account for the other cases that have not been documented or properly investigated. Yet, it does prove the fact that policymakers and law enforcement does not

⁸ Rosa-Linda Fregoso, Cynthia Bejarano, *Terrorizing Women Femicide in the Américas*, Duke University Press Durham and London, 2010. Pg xxi.

⁹ Sanchez, Fabiola, and Fernanda Pesce. “Why Mexico Has Made Little Progress on Femicide.” *PBS*, Public Broadcasting Service, 27 Dec. 2022, pg 1.

prioritize the prevention of femicides, nor the ability to investigate them. In Mexico, “approximately ten women are murdered every day”¹⁰, and that number is close to the number where nine out of twelve women are at risk of a femicide in Latin America. It is incredibly significant because it displays that despite all the demonstrations that have gained attention on social media in Mexico, there is still that high number in which women are at risk of. Some women are fortunate to survive their experience, while some have their family members being the ones to advocate for their justice.

Jeysol Amara was a victim of an attempted femicide from her former partner in 2015. She was “stabbed 37 times by her former partner and spent two months in intensive care”¹¹. After this attack, he still remained free with no accountability, while Jeysol has mentioned in an interview that she fears for her life every day because she does not know his whereabouts, she has questioned “How do I know he is not going to try to do something when I go out to the street?”¹² Her story presents the fact that victims who have survived an attempted femicide are left with the lingering feeling that their aggressor will try to murder them once more, and they may be successful. It is not paranoia that they feel, but real fear, and with cases of women disappearing and being found dead, it only adds to the fear that these women, and many other who are not victims feel because it is a reality.

Amara presents that the women who are victims do not have any protection or justice are left vulnerable and forgotten. For instance, “Mexican prosecutors over the last eight years have

¹⁰ Mariamne Crippa Méndez, Adriana Rodríguez Barraza, An Interpretation of Femicide in Mexico: Violence and Human Rights, *Advances in Applied Sociology*, Vol, 12 No.2, 2022, pg 1.

¹¹ United Nations. “‘We’re Here to Tell It:’ Mexican Women Break Silence Over .” *United Nations Human Rights Office of the High Commissioner*, 3 July 2023, pg 1.

¹² United Nations. “‘We’re Here to Tell It:’ Mexican Women Break Silence Over .” *United Nations Human Rights Office of the High Commissioner*, 3 July 2023, pg 1.

opened 1.7 million criminal investigations for beatings, burns, strangulation, injuries with knives or firearms against women”¹³. Yet out of these cases, only 781 were classified as attempted femicides. This displays why the numbers that are documented are not entirely true because only a few of these crimes were ruled as an attempted femicide, not all of them, a small percentage. It shows that there is a poor measurement on the gender-based violence that these victims endured and survived. Typically, when femicides are mentioned, the victims are deceased, yet in this case, these victims who have survived are on their own and are forgotten.

For these victims to be forgotten, it is erasing what had happened to them, it erases the fact that they had experienced an attempted femicide, and they had almost fallen victim to it. These femicides are significant to be noticed because these victims are alive, they have the right to advocate for themselves and many others, but most of all, they have the power of their voice that will cause a community to form.

BRAZIL’S NUMBER ONE

In Brazil, homicide is a crime in which it is a requirement for there to be a jury trial. Because homicide is a crime against life, Brazil’s legal system has two definitions of homicide that can be a factor that may affect the ruling towards the end of a trial. This being qualified homicide, and simple homicide. So, what differentiates between the two, and why the need to have two different types of ruling for Homicide in the first place? Qualified homicide as defined by, the Women’s Rights Project in *Criminal Injustice Violence Against Women in Brazil*, “a

¹³ United Nations. “‘We’re Here to Tell It:’ Mexican Women Break Silence Over .” *United Nations Human Rights Office of the High Commissioner*, 3 July 2023, pg 1.

qualified homicide involves aggravating factors such as a spousal relation between the aggressor and the victim”¹⁴. The amount of time an aggressor may serve ranges from 12 years to 30 years maximum as a penalty for being found guilty of a qualified murder, whereas simple homicide would require the aggressor to serve 6 to 20 years. These rulings demonstrate how corrupt the legal system in Brazil is. Looking back at the history of the laws in Brazil, it was justified for a man to kill his wife because it would be ruled as a crime of passion. The reasoning for this is if the wife were to commit adultery, it would give her spouse a “justification” behind his actions, but this was long before Brazil had gained its independence in 1822. Once the nation had officially become its own country, the legal system would no longer allow civilians to commit this act, but that did not necessarily mean that the men would stop killing.

The history of Brazil is rooted with gender disparities where it was justified for a man to kill his wife if she committed adultery. It was deemed to be okay because news like that would cause a man to have such “strong emotions” so it was “fine” to murder his wife. It is stated that “the notion that a man’s honor can be gravely threatened by his wife’s adulterous action reflects proprietary attitudes towards women deeply rooted in Brazilian society.”¹⁵ This demonstrates that the legal system in Brazil has always acted unjustly. Because of this, it simply sets up the stage for gender inequalities within the nation and feeds the femicide rate. Brazil has been at the top of the list of Latin American countries that have the most Femicides.

In Brazil one of their states serve as an example of why the Femicide rate is high, but also why impunity is present in the country. In Roraima, a state in Brazil there is a woman’s police

¹⁴ Women’s Rights Project, *Criminal Injustice Violence Against Women in Brazil*, Human Rights Watch, October 1991, Pg. 18.

¹⁵ Women’s Rights Project, *Criminal Injustice Violence Against Women in Brazil*, Human Rights Watch, October 1991, pg. 21.

center in Boa Vista, and its purpose is providing the help that women need in regards to domestic violence, sexual assault, and any form of gender violence. However, it is evident that this center does not provide quality service for these women, nor display effort. For example, in the published work, *“One Day I’ll Kill You” Impunity in Domestic Violence Cases in the Brazilian State of Roraima*, published by the Human Rights Watch, it is reported that “when officers respond to calls for help and they determine the woman has suffered violence, Lopes said, they take the victim and the alleged aggressor to the civil police to register a complaint.”¹⁶ The significance behind this example establishes the fact that by having the victim go to the center, alongside with the aggressor to file a “complain” does not help the victim or the person who called. Because there is a possibility that the police will rule it out as nothing more as an “argument” a dispute that occurred and it will be dismissed. In addition to this, it will provide more emotional and physical distress on the victim because the aggressor will commit domestic violence in a much more violent way, and it could possibly end in a femicide case.

To support how this state has been handling femicide, it is established that the center is open from 7:30 am to 7:30 pm from Monday to Friday. It remains closed on the weekends and later hours in the day, which is when most gender-based violence acts occur. This center proves to provide very little effort and help for victims as it is not operating 24/7 and remains closed on the weekends. It displays that domestic violence and gender-based violence is not a concern even though is the prime reason the center exists in the first place. In fact, there is an officer that remains in the office to file the complaints that are made, but only a small amount is created. For example, at the women’s center in Boa Vista, approximately 2,026 complaints were made in

¹⁶ Human Rights Watch, *“One Day I’ll Kill You” Impunity in Domestic Violence Cases in the Brazilian State of Roraima*, Human Rights Watch, June 2017, pg 8.

2016, out of those complaints the center “opened investigations into only 957 cases”¹⁷. This is less than half of the cases that were made, and it is an appalling number to see, and it does not guarantee that the cases that are actually investigated are conducted properly and thoroughly. It is a requirement by the law that police must send a completed investigation within 30 days, yet if an aggressor is free or detained, they can ask for an extension on the investigation. Which contributes to the fact that these investigations are in fact not completed because it is apparent that many police ask for an extension for these cases to the point in which they reach the statute limitation where the case is no longer viable. This was almost evident in the case of Maria da Penha where her case was extended to 20 years.

By extending cases and only investigating a small amount this displays the lack of prioritizing femicide and gender-based violence. This contributes to the rate of femicides in Brazil being exceedingly high, and why the country was condemned internationally. This also does very little for the victim, because they are the ones that have to worry what will happen to them on the daily knowing that their aggressor is free, and there is no accountability for their actions.

CONCLUSION

When we look at the femicide rate in Latin America, we face the fact that gender disparities are apparent when the crime has already been committed. Law Enforcement fails to properly conduct a search until they are publicly taunted and condemned by enraged family

¹⁷ Human Rights Watch, “*One Day I’ll Kill You*” *Impunity in Domestic Violence Cases in the Brazilian State of Roraima*, Human Rights Watch, June 2017, pg 8.

members, community members, and those who are worried about the situation. If they do not receive any sort of pressure, there will be no proper investigation, there will be no answers or justice, just another case adding to the Femicide rate in Latin America. Another name added to the roster that needs to be said and remembered. It does not help that the femicide rate that is reported is not the “correct” number. With the manipulation of the rate and the known fact that not all femicides are reported, there are many other victims who are not known. There is not much known about their story’s. Because of this, it is important to know the stories that are apparent and known, to provide them with the spotlight they deserve to display the killing of women is a problem.

The purpose behind this research project was to examine the femicide rate in Latin America, but also provide a sense of awareness because this is a prominent issue that has no resolution. While there are many people in those countries that stand against and take part in demonstrations as an effort to gain the attention of policymakers and law enforcement, it is evident that without any sort of pressure or effort from the outside, they will not put any effort into these cases. It further shows that these cases are considered to be unimportant and not a priority to focus on, and it is a sad reality. It should not be the family members who must put that much pressure on the law enforcement investigating their loved one’s disappearance, it should be them themselves. They should be willingly putting that effort actively without any sort of incentive or pressure. This has been a frustrating reality to study because as new data appears with new cases, it shows that these victims are being failed by their countries. Thus, the significance behind studying the Femicide rate in Latin America.

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