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Integrating Gender Perspective into Brazilian Legal Doctrine and Education: Challenges and Possibilities

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INTEGRATING GENDER PERSPECTIVE INTO BRAZILIAN LEGAL DOCTRINE AND EDUCATION: CHALLENGES AND POSSIBILITIES

FLÁVIA PIOVESAN¹

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“Equality is not a given but a build-up.”²

Hannah Arendt

I. INTRODUCTION

This study focuses on the challenges and possibilities for integrating gender perspective into Brazilian legal doctrine and education. Like other Latin American countries, Brazil has enforced the civil law system, where statutes and normative rules serve as the major source of law. As a result, the study of the legal doctrine also becomes the focus of special attention. Unlike countries which follow the common law system, where legal precedents constitute the most relevant source of law, the Latin American system is based on a tradition of legal codes and doctrines which guide judicial interpretation.

This study will address three questions: 1) how to integrate the gender perspective into Brazilian legal doctrine and education; 2) what are the main obstacles to such a process; and 3) what are the possibilities and perspectives of such a process?

This paper outlines the challenges and obstacles that prevent the inclusion of a gender perspective into Brazilian legal doctrine and education. This paper also focuses on the possibilities and perspectives that may encourage and allow the process of including the gender standpoint into Brazilian law schools.

II. INTEGRATING GENDER PERSPECTIVE IN BRAZILIAN LEGAL DOCTRINE AND EDUCATION: OBSTACLES AND CHALLENGES

A. Anachronisms of the Brazilian Legal System and the Need for Transformation

The Brazilian legal system consists of a complex normative system that combines contemporary and innovative legal instruments, such as the Brazilian Constitution of 1988, with legal provisions dating back to the beginning of the century, such as the Civil Code of 1916 and the Penal Code of 1940.

In view of such a complex regulatory system, where historical legal provisions are combined with contemporary legal provisions, conflicts and tensions inevitably emerge. Such conflicts and tensions are faced

2. Free version of translation.