



A THEORETICAL APPROACH TO THE CONCEPT OF FEMICIDE/FEMINICIDE

By Aleida Luján Pinelo

Main supervisor

Dr. Peta Hinton

Universiteit Utrecht

Support supervisor

Dr. Cándida Martínez López

Universidad de Granada

Submitted to Universiteit Utrecht, The Netherlands

Media and Cultural Studies Department

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UNIVERSITA DI BOLOGNA



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UNIWERSYTET ŁÓDZKI



RUTGERS

ABSTRACT

The concept of “femicide” was first formulated in 1992 by Jill Radford and Diana Russell; nonetheless, it has not been widely discussed in feminist philosophical arenas, and this situation has led to a narrow understanding and/or misunderstanding of it. For example, it is often mistakenly applied to a phenomenon assumed to occur “only in third world countries”. Thus, on the one hand, with this work I aim to contribute to the discussion on this concept from a feminist theoretical perspective using mainly a feminist new materialist methodology. And, on the other hand, with it I aim to contribute to dismantling the idea that theory and praxis constitute a mutually exclusive dichotomy. I follow Elizabeth Grosz’s understanding of feminist philosophy as the *creation* of new concepts relevant to understanding women, femininity, and social subordination more generally. Therefore I argue, firstly, why femicide/feminicide—a term that aims to give a name to a gendered phenomenon of killing, thus avoiding the gender neutrality of the term “homicide”—is a *concept* and noteworthy to feminist theory and activism. Thus understood, using a cartographical methodology, I make a mapping and situate the concept of femicide/feminicide in diverse geographies. Afterwards I critically analyze the components of this concept with the aim of not just problematizing it in itself but also showing its relationship to other concepts and debates such as the one on sex versus gender. The last part of my investigation shows, through the concept of femicide/feminicide, the active and necessary relationship of philosophy in the practical sphere, doing this via an analysis of the concept in two cases of legislation, one local (Oaxaca) and the other transnational (International Criminal Court).

RESUMEN

El concepto de “femicidio” fue formulado por primera vez en 1992 por Jill Radford y Diana Russell; sin embargo, este no ha sido discutido con suficiencia en claves de filosofía feminista. Esta situación reduce su entendimiento y/o se mal interpreta; por ejemplo, al aplicarse a un fenómeno que ocurre “solo en países del tercer mundo”. De ahí que con este trabajo busque contribuir a su discusión desde una perspectiva teórico-feminista, utilizando principalmente una metodología del nuevo materialismo feminista, por un lado y por otro, también busco contribuir a desestructurar la idea de que teoría y práctica conforman un dualismo en mutua exclusión. Para ello parto de la noción de Elizabeth Grosz: la filosofía feminista es la *creación* de nuevos conceptos relevantes para la comprensión de las mujeres, la feminidad y la subordinación social en general. De ahí que, desde el inicio, discuta por qué femicidio/feminicidio –término que busca dar nombre a un fenómeno de asesinato de género, evidenciando con ello la no neutralidad de género del término “homicidio”– es un *concepto* y *significante* para la teoría y activismo feminista. Así entendido, realizo un mapeo y sitúo el concepto de femicidio/feminicidio en diversas geografías, al hacer uso de una metodología cartográfica. Luego, analizo de manera crítica los componentes de dicho concepto, con el fin no sólo de problematizarlo en sí mismo sino también de mostrar su relación con otros conceptos y debates, tal como el de sexo versus género. La última parte de mi investigación muestra a través del concepto de femicidio/feminicidio la relación activa y necesaria de la filosofía en el ámbito práctico, esto a través del análisis de dicho concepto en dos casos de legislaciones: uno local (Oaxaca) y otro internacional (Corte Penal Internacional).

TABLE OF CONTENTS

ACKNOWLEDGMENTS	6
INTRODUCTION	10
CHAPTER 1: NO ONE STARTS FROM NOTHINGNESS	13
SECTION 1.1: CONCERNING METHODOLOGY	13
SECTION 1.2: FEMICIDE/FEMINICIDE: A CONCEPT	24
CHAPTER 2: CARTOGRAPHY OF THE CONCEPT FEMICIDE/FEMINICIDE	33
SECTION 2.1: THE UNITED STATES AND THE UNITED KINGDOM	34
SECTION 2.2: LATIN AMERICA	36
SECTION 2.3: EUROPE	43
SECTION 2.4: UNITED NATIONS	47
SECTION 2.5: FINAL CONSIDERATIONS	50
CHAPTER 3: ANALIZING THE CONCEPT	51
SECTION 3.1: PATRIARCHY	54
SECTION 3.2: WOMAN/FEMALE/GENDER	58
SECTION 3.3: GENDER VIOLENCE/VIOLENCE AGAINST WOMEN/PATRIARCHAL VIOLENCE	62
SECTION 3.4: COMPLEXITY OF THE PHENOMENON, <i>ERGO</i> COMPLEX CONFIGURATION OF FEMICIDE/FEMINICIDE	67
CHAPTER 4: FOR THE PRESENT AND THE FUTURE	78
SECTION 4.1: THE CONCEPT OF FEMICIDE/FEMINICIDE AND LOCAL LEGISLATION: THE CASE OF OAXACA	82
SECTION 4.2: THE CONCEPT OF FEMICIDE/FEMINICIDE AND TRANSNATIONAL LEGISLATION: THE CASE OF THE INTERNATIONAL CRIMINAL COURT	90
CONCLUSIONS	95
BIBLIOGRAPHY	100

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This thesis is situated and located: my decisions and inquiries are not only personal but also the result of social and cultural influences arranged in a complex way. The fact that this writing has jumped between different geographical locations—Berlin, Granada, Madrid, Mexico City, Oaxaca, Utrecht and Amsterdam—also has theoretico-material influences. This work is then a result of historical intra-actions, discussions and encounters with other people; in this sense, some of my thoughts, written down here, are the outcome of indirect processes of knowledge, in which the words and ideas of other people—which I cannot quote right now and maybe do not even remember—are contained in the complex process of the enunciation “I”. The “others” in this process are difficult to trace but I recognize them. The ideas and influences in this paper do not come exclusively from personal academic readings (the references to which are accessible through the bibliography section) but also from indirect and not always academic knowledge, the product of multiple experiences and discussions. Therefore, of course I want to recognize the valuable help of people of the academic sphere but I also want to acknowledge those others that contributed to producing this academic work without realizing or also consciously.

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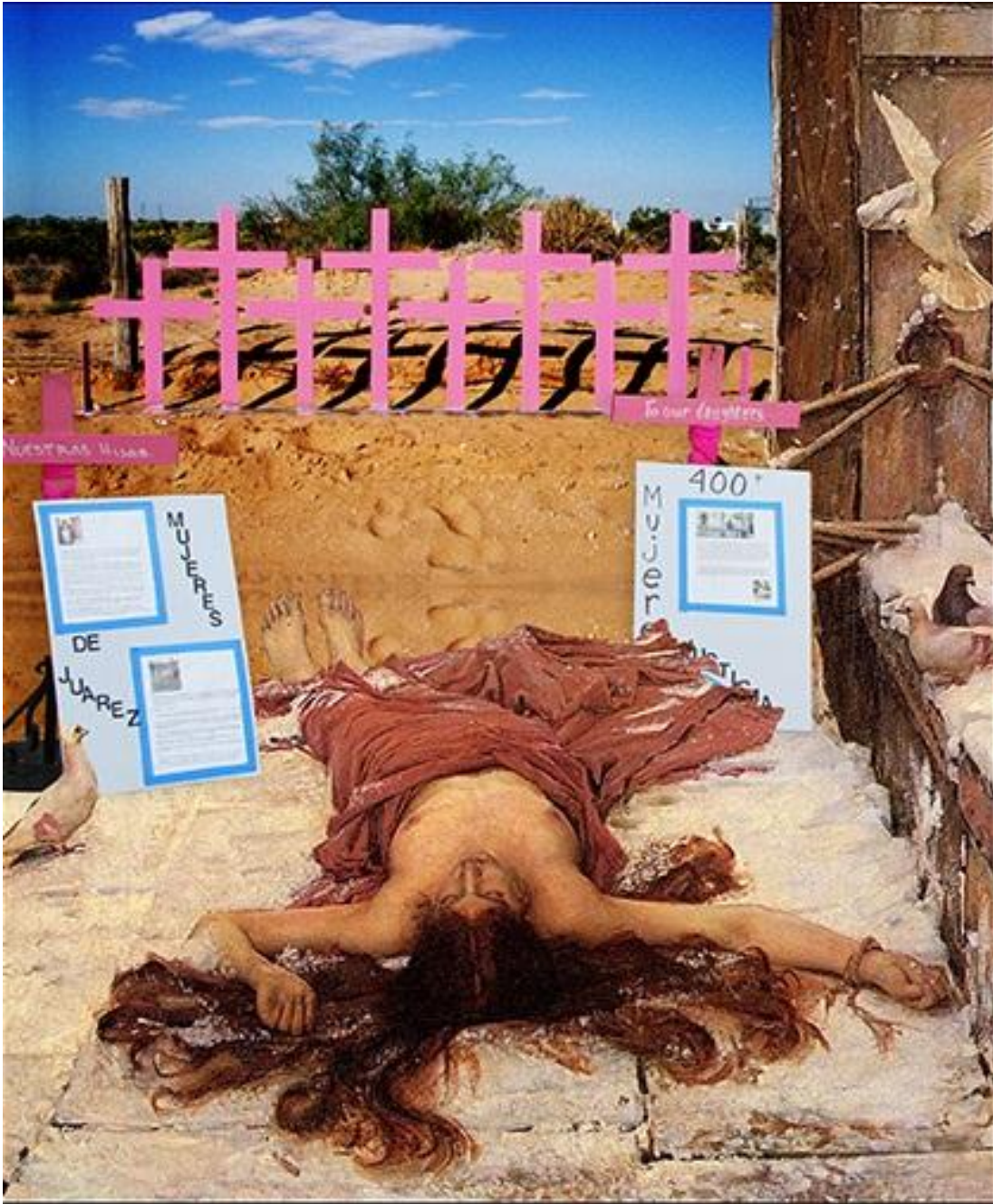


Fig. 1. Femicidio.net

To my grandmother Concepción Serret Rojas (1927-1962)

INTRODUCTION

Olga Alicia Carrillo Perez disappeared the 10th of August, 1995 in the northern border town of Ciudad Juárez in Mexico;¹ her body was found in an area called Lote Bravo in the south part of the city—the same place where other teenagers would be found later that year. The medical officers declared that her “(...) right breast was severed and her left breast was literally bitten off. She had been stabbed repeatedly, her neck was broken, and there were signs she had been raped” (Washington, 2006:8). Similar killings of women occurred not just in Lote Bravo but in other areas of Ciudad Juárez such as Lomas de Poleo or the cotton fields. From 1993 to 2005, approximately 470 women were killed in Ciudad Juárez. This situation has drawn the attention of activists, theorists and civil organizations because of the particularities of the killings, and since 1998 they have started to be called “feminicidios” (femicides), because of their cruelty and the gender component they carry: torture, rape, mutilations, burning, and the dumping of the dead bodies in inhospitable places (Monárrez, 2009:9). The feminist use of the concept femicide/femicide was first formulated in 1992 by the English activist Jill Radford and the American activist and theorist Diana Russell as an attempt to give name to a gendered phenomenon of killing, thus avoiding the gender neutrality of the term “homicide”: it was defined as “the misogynist killing of women by men” (Radford & Russell, 1992:xiv,3). In particular, the killings in Ciudad Juárez also show clear components of class and physiognomy, since most of them are perpetrated against women of the working class and women with brown skin. Because of these events, Mexico, and Ciudad Juárez in particular, is internationally recognized in reference to the “feminicidios de Ciudad Juárez” (femicides of Ciudad Juárez).

I was born and raised in Mexico, but this does not make me an expert or even familiar with the phenomenon of femicide; it was in 2006 that an Argentine friend, now based in Spain, introduced me to the subject. Later, in 2011, I started to collaborate with the platform this friend was coordinating, *Femicidio.net*. In 2013, in the context of a class in Granada, Spain, I first began to wonder about the apparent essentialization of the subject

¹ A border town in Chihuahua state in México. According to statistics in 2001, the States with the highest number of femicides in Mexico were, in this order: Estado de México; Guerrero and Oaxaca (Lagarde, 2005).

“women” by the term feminicide when a classmate (who defined herself as “transfeminista”, transfeminist) noted that this term did not speak to her because it did not include non-normative subjects. This classmate argued “we also have our dead”, referring to non-normative subjects, such as transgendered people, who are also the targets of gender-based murders. At that point—and I am grateful for her query—I began to wonder: Does speaking of feminicide essentialize women? When talking about feminicide, what should one understand “women” to mean? Could this perception of being essentialized be what causes some feminists to not engage with the subject? I do not think that the concept of feminicide necessarily essentializes women, and this is one of the reasons I am engaging with this research at a theoretical level: in order to approach the notion of “women” which is at stake in this phenomenon and concept.

Before continuing, I want to note that from here on I will use the double term “femicide/feminicide”, unless otherwise specified, in order to avoid taking sides in the terminological argument that I will later address. With that said, I start from the idea that theory and practice do not form a clear and distinct duality, though I recognize that they are not the same either. Therefore I state that this work will address femicide/feminicide on a philosophical level. At this theoretical level, my research has two aims: first, to question the mutually exclusive dualism theory/praxis, by showing how concepts are at stake in, and intertwined with, the practical sphere, using the example of law and its relation to the concept of femicide/feminicide; and second, to open up the complexity of the concept of femicide/feminicide.

In chapter one, I discuss the understanding of the theoretical or philosophical approach and I state the elements that constitute femicide/feminicide as a concept. Also, I tackle the methodology I use in this work, which mainly goes along the line of thought of “new feminist materialism”. Though “femicide” emerged in an English-language context, as stated before, the term spread quickly in the Spanish language, where a debate was opened between the use of “femicide” versus “feminicide”. In the second chapter, echoing the “politics of location”, I develop a cartography of femicide/feminicide in the United States of America and England, where the concept of “femicide” was first formulated; in Latin America,² where the concept has had a great reception; in Europe, where the concept

² I use the English term to refer the countries other than the USA and Canada in America even though I

is still not broadly discussed; and finally in the United Nations, the arena in which the concept and phenomenon have been tackled on an international level.

Radford & Russell defined “femicide” in 1992 as “(...) the misogynist killing of women by men” (Radford & Russell, 1992:3), and later Russell redefined it as “(...) the killing of females by males because they are females” (Russell, 2001:video). These definitions illuminate the necessity of analyzing the components of femicide/feminicide, since changing the terms used from “women” and “men” to “females” and “males”, for instance, generates a different understanding of what femicide/feminicide refers to. Therefore, in chapter three, after establishing femicide/feminicide as a concept, I activate it in relation to its other component concepts such as: patriarchy or sex/gender system; women and gender; and gender violence. These are other concepts and discussions that the concept of femicide/feminicide demands in order for us to grasp its complexity. Following the idea that theory is not separate from materiality and political practice, chapter four relates to practical considerations of theory. I address how the concept of femicide/feminicide relates with praxis through, in this case, the legal sphere, in which concepts are linked with legal categories. For that, I consider two cases of how femicide/feminicide is used in legal terms, in order to compare them and find if the uses of the concept respond to the analysis made in the previous chapter. I tackle a local case, that of the state of Oaxaca, in Mexico, and an international case, that of the International Criminal Court; these two cases are not to be considered antagonists but rather the extreme geographical levels on which the concept operates. Finally, I offer a closing in which I take stock of the achievements of this thesis, of its topicality and pertinence.

consider it a problematic use since, for instance, not all cultures in that region share Latin roots. In the Spanish-speaking debate, there are some suggestions to avoid the reductionism of the word, for example, “Nuestra América” (Our America), first used by José Martí, but which I first heard in a feminist seminar now renamed Seminario de Feminismo Nuestroamericano at the Autonomous University of Mexico City; or “Abya Yala”, term used by the Kunas, since America is a colonial name. *Cfr.* Gargallo, 2014.

CHAPTER 1: NO ONE STARTS FROM NOTHINGNESS

It is not by chance that one chooses to use one methodology or another, and neither is it a coincidence that one decides to speak with some theorists and not with others. In my case, I am aware of this, but I am also conscious of the personal, material and temporal limitations one has in developing research. I present here the tools that have been most helpful in this present research, as they have helped to tackle the dynamism and complexity of the subject femicide/feminicide.

1.1 CONCERNING METHODOLOGY

Rosi Braidotti has stated that since the mid 90's "[f]eminist philosophers have invented a new brand of materialism, of the embodied and embedded kind" (Braidotti, 2005:177). Echoing this statement, I take as my point of departure in my research the theory formation known as new feminist materialism, or what Iris van der Tuin calls third-wave feminist epistemology.³ In *Jumping Generations* van der Tuin identifies three waves of western feminist epistemology: feminist empiricism, feminist standpoint and new feminist materialism.⁴ In this article the author is concerned with generationality in academic feminism in general and in feminist epistemology in particular. Rather than joining the debate on generations and waves in feminism, I am interested here in her characterization of what she calls the third wave of feminist epistemology.

One can differentiate "third-wave feminist epistemology" from "new materialism" in general, since the latter is not exclusively generated in feminist terms. The fact that one can distinguish them does not mean, however, that they again represent a dichotomy or a classification. New materialists like Manuel DeLanda, Quentin Meillassoux and François

³ The identification of waves in feminism is controversial, but I use this term in relation to the text of Iris van der Tuin. I recognize different processes in feminist epistemology and I am aware of the importance of genealogies but I am not sure if waves is the best term in talking about those processes.

⁴ For a noteworthy critique of van der Tuin's argument, see Clare Hemmings in *Generational Dilemmas. A Response to Iris van de Tuin "Jumping Generations": On Second- and Third-wave Feminist Epistemology*.

Laruelle, for example, are not especially concerned with feminist issues, but in a way some of their queries are related and their inquiries are reciprocally helpful. The main commonality that makes them all new materialists is their interest in the possibility of tackling the materiality that was cut off by the linguisticism of post-structuralism. Or as Braidotti sums up: “[n]eo-materialism’ emerges as a method, a conceptual frame and a political stand, which refuses the linguistic paradigm, stressing instead the concrete yet complex materiality of bodies immersed in social relations of power” (Dolphijn & van der Tuin, 2012:21). Nevertheless, the feminist theorists that have played an important role in developing new materialism have significantly modified the understanding of feminist epistemology, because of which I choose to use the term “new feminist materialism” instead of third-wave feminist epistemology. I do this with the understanding that, in general terms, both can be considered synonyms. Following van der Tuin’s aforementioned text, this situated epistemology (Braidotti, 2005:177) is characterized by some of the following elements that will later be addressed at greater length: a nonlinear conception of time; the reconfiguration of space and matter; non-dialectical, non-dichotomous and non-exhaustive oppositions; a generative aspect; the absence of Oedipal, foundational, and relativist structures; its use of transpositions, bridging or jumping; and cartographical approaches that move beyond classifications.

Cartography is a methodology used to give a political account of the present (Braidotti, 2011:4), with the awareness that one is always speaking from somewhere. I take this methodology from Braidotti but she acknowledges that her cartography of the present comes from Michel Foucault in the sense that it is a sort of mapping of what is called the present time (*cf.* Braidotti, 2011b). In general terms, she has said that:

[a] cartography is a theoretically-based and politically-informed reading of the present. A cartographic approach fulfills the function of providing both exegetical tools and creative theoretical alternatives. As such it responds to my two main requirements, namely to account for one’s locations in terms both of space (geopolitical or ecological dimension) and time (historical and geneological [*sic*]), and to provide alternative figurations or schemes of representation for these locations, in terms of power as restrictive (*potestas*) but also as empowering or affirmative (*potentia*) (Braidotti, 2002:2).

The cartography, in this research, will be used as a mapping to give an account of the

political-theoretical conditions in different geographical locations and temporalities of a specific concept: femicide/feminicide. With the awareness of my own location, this mapping also aims to shed light on the creative and generative possibilities that this concept has in different geographical and temporal dimensions: local and international regions, current codifications and possible forthcoming ones. I do not use cartography as a historical method to give an account of a *history* of the concept femicide/feminicide. Even though a cartography may relate to the genealogy of a concept, the intention of this research is not solely to trace the genealogy of this specific concept—in that case I would have considered the methodologies of genealogy or archeology (from Nietzsche and Foucault, respectively) and have analyzed them along with Braidotti's notion of cartography as possible non-exclusionary methods.

The notions of non-dialectical, non-dichotomous and non-exhaustive oppositions are important to new feminist materialism and to the aims of this work. These ideas are key tools that allow one to keep from falling into false dualisms such as nature versus culture, science versus humanities, old versus new, materialism versus idealism, women versus men or social constructivism versus essentialism, to name a few. At the same time, non-exhaustive oppositions open up the “new” of new materialism without falling into the negative, hierarchical relations that structure dichotomies.⁵ Dualisms, in this approach, are to be understood as the two sides of the same coin: “[a]n idea opposed to another idea is always the same idea, albeit affected by the negative sign. The more you oppose one another, the more you remain in the same framework of thought” (Serres & Latour cited in Dolphijn & van der Tuin, 2012:98). Therefore one of the methodologies developed by new materialism, according to van der Tuin and Dolphijn, is that of “pushing dualism to an extreme”, as expressed by Bergson, or “difference pushed to the limit”, for Deleuze: an affirmative, non-dialectic work that aims to traverse dualisms. In this method one begins with an affirmative move, recognizing instead of denying the dichotomy, and goes on to analyze one of the terms until it falls apart under the scrutiny. Carrying differences to the limit in this way calls into question major traditions: “We invoke one dualism only to challenge another. We employ a dualism of models only in order to arrive at a process that

⁵ “Non-exhaustive dichotomies” or “unreal dualism” are terms used by Lynn Hankinson Nelson. He argues that “(...) a pole of a dichotomy or binary opposition is always implied in the other as its negation, which makes dichotomies unreal and oppositions non-exhaustive” (Dolphijn and van der Tuin, 2012:97).

challenges all models” (Deleuze & Guattari cited in Dolphijn & van der Tuin, 2012:119).

Specifically, third-wave feminist epistemology or new feminist materialism is less interested in assuming linearity: a temporal progression that implies the negation or overcoming of the preceding waves or generations of feminist inquiry in a dialectical way. Instead, it is a feminist approach that aims to work in a generative way, performing what Braidotti calls “transpositions” or doing what van der Tuin labels “jumping generations”, a term “for the bridging of ‘classes’ that were previously considered to be incommensurable, while being, in fact, part of a non-exhaustive dichotomy” (van der Tuin, 2009:24). This new wave traverses and dialogues with the previous waves or generations, thus avoiding Master narratives, phallic Mothers or Oedipal structures.⁶ As van der Tuin (2009:28) argues, “recent generations of new materialism cannot be captured by a (post-) classificatory mode (...) New materialists do not build their case on the basis of sequential negation, and a progress narrative structure is not underlying the shared conversation”. This feature, the shared conversation, is relevant to the development of my research, not just in its generational dimension but also in its bridging and conversational character between disciplines, different theorists, and varying uses of concepts such as femicide/feminicide. In 1992 the concept femicide/feminicide was introduced into the feminist toolbox by Diana Russell and Jill Radford, and since then a large production of knowledge has been elaborated. One of the aims in this work is to weave together several generations of theorists and their arguments in a way that is neither dialectical nor foundationalist: to bridge arguments instead of negating previous theorizations, and to enable generative conversations.

Braidotti proposes a new way of understanding “universalism” that I find important for the aims of this writing. “Universalism” has acquired a bad reputation within feminism; nevertheless, it should not be dismissed but rather reconceptualized. Universalism is considered to make overgeneralizations regarding diversity (Braidotti, 2011:85); it has traditionally been disembodied, while concealing an abstract masculinity, whiteness and

⁶ According to van der Tuin, the Master narratives are common in the second wave of feminism, in which the dialectic of the Hegelian Master-slave is reproduced; these narratives mean the confirmation by negation or subsumption of the philosophical Masters. Phallic Mothers refers to this same dialecticism, which seeks to embrace the competition of theories in order to have the right or power (*phallus*) of knowledge, or, in the Master-slave structure, to become the Master. Oedipal structures are also a dialecticism and are inspired by the Oedipal complex, which is impelled by competition and the sense of rivalry (van der Tuin, 2009:20-22).

Occidentalism, a false “(...) subject position that allegedly transcends spatio-temporal and geo-political specificities (...)” (Dolphijn & van der Tuin, 2012:22). Thus understood, universalism is in fact a political stand that universalizes some differences over others. For the purpose of this writing I will call this universalism “false universalism”. Braidotti accepts this feminist critique but does not give up the concept of universality; she reconceptualizes it in a distinctive and enabling way, arguing that universality is “(...) a qualitative leap, from individual experience to collective practice (...)” (Braidotti, 2011:115). Here “individual experience” is to be understood as being embodied and embedded in the materiality of existence, implying that universality is situated and therefore not gender neutral or disembodied, for instance.

Karen Barad’s agential realism is a new materialist theory that proposes, in the vein of van der Tuin’s notion of third wave feminist epistemology, or new materialism, a new understanding of time, space and matter that is different from the Euclidian conception of time and space, the Newtonian notions of causality, and the idea of matter as passive. This perspective interests me as an umbrella under which to read and understand the different theorizations on femicide/feminicide that will be considered in this work, and under which to consider this thesis in itself. Like all new materialist thinkers, Barad advocates for the possibility of speaking and giving an account of the real, matter, and nature after post-structuralism. In her own words:

agential realism goes beyond performativity theories by providing a framework for taking account of the discursive and material nature of social practices (...) it diverges from feminist postmodern and poststructuralist theories that acknowledge materiality solely as an effect or consequence of discursive practices (Barad, 2001:76-77).

Barad does not deny the role of discourse, nor does she fall into a new “essentialism”, but advocates for privileging *neither* nature *nor* culture. She rather proposes what she names “material-discursive intra-actions” or “phenomena”.⁷ As she puts it, “[p]henomena are entanglements of spacetime-mattering, not in the colloquial sense of a connection or intertwining of individual entities, but rather in the technical sense of ‘quantum entanglements’, which are the (ontological) inseparability of agentially intra-acting

⁷ Her understanding of this term comes from the physicist Niels Bohr. Cf. Barad, 2001.

‘components’” (Barad, 2012:32). Within these “components”, the author considers the non-human elements such as environmental conditions. Along this line, a phenomenon is not just a discursive or “natural” event: a phenomenon here is a complex arrangement of discourse and material “spacetime-mattering” conditions. In the case of femicide/feminicide, one cannot speak of it without taking into account the power of discourse that constitutes it, but one also cannot remain solely within this linguistic sphere without considering the materiality of this event: that is, the impact that it has on “real”, corporeal subjects. Spacetime-mattering configures the particularities of femicide/feminicide and opens up the complexity of this concept and phenomenon. The cultural and geographical conditions of Ciudad Juárez—its status as a desert zone neighboring the USA, its narco culture, its economic situation and industry—are some of the non-human components from which the phenomenon of “feminicidios de Ciudad Juárez” emerge.

In agential realism, matter, time and space are reconfigured: they are not ontologically prior substances with determined properties or identities that come into interaction, thus generating intersections that constitute a phenomenon. Instead, they are generative forces that co-emerge through “intra-action”. The latter is a key term of Barad’s theory, by which the author highlights the relational and generative character of phenomena:

Phenomena are ontologically primitive relations – relations without preexisting relata. That is, relations are not secondarily derived from independently existing “relata”, but rather the mutual ontological dependence of “relata” – the relation – is the ontological primitive. Relata only exist *within* phenomena as a result of specific intra-actions (i.e., there are no independent relata, only relata-within- relations) (Barad, 2012:49).

Avoiding the sketching of time, matter, space as preexisting “substances”—as independent and at the same time absolute—Barad proposes a new configuration of them, in which matter is the material condition—agential reality—of phenomena. This reconfiguration of matter as an active agent of phenomena is an important point for feminist theory, since matter, throughout the history of western philosophy, has occupied a minor position in relation with that of the mind (this will be important when talking later about concepts, and in chapter three). Time is historicized, it “(...) is not given, it is not universally given, but

rather (...) is articulated and re-synchronized through various material practices (...) *time itself* only makes sense in the context of particular phenomena” (Dolphijn & van der Tuin, 2012:66)—that is, in intra-actions. This notion of time plays different roles in this writing, such as in the relations between the theories I tackle, in the process of research and writing itself, and in the different ways in which it emerges in the phenomenon of femicide/feminicide. As stated by Barad, matter, time and space are entangled and intra-acting, therefore space also plays a role in this research. Barad says space is the “(...) ongoing process of (re)structuring through the (re)making of boundaries (...)” (Barad, 2001:91); space is seen here then not as a container of a phenomenon but as a process that produces and is produced by the intra-action that constitutes an event. Space is the unfolding of the material-discursive intra-actions.

Another insight of agential realism useful to my research is that considering a phenomenon, event, or structure to be generative instead of generated requires that one consider its multiple and complex components (which may include non-human elements) in order to grasp its complexity. In *Reontologising race: the machinic geography of phenotype*, Arun Saldanha makes an effort to give an account of the ontological foundations of race, and not to reduce it to a problem of language—that is, ideologies, discourses, or narratives (Saldanha, 2006:9). Using Gilles Deleuze and Félix Guattari’s notion of *agencement machinique*⁸ as a methodology to explore how the apparatus of race operates, Saldanha holds that race is a phenomenon that can be seen through the concept of “(...) *emergence*: the nonnecessary, gradual, spontaneous, and constrained accumulation of organization and a larger ‘agency’ through the synergy of smaller forces” (Saldanha, 2006:17). In Barad’s terms, the phenomenon of race is an intra-acting phenomenon in which multiple components are at stake. In the vein of Deleuze and Guattari’s approach, *agencement machinique* here does not mean a fixed function, but refers to the way in which different factors enable the movement of a phenomenon, of the agential elements from where it emerges. By using the term, Saldanha means to take into account all the entities that interplay in a phenomenon. From this it is easy to read Saldanha’s concerns in agential realist terms. A phenomenon is an assemblage of relational and generative intra-actions—or

⁸ The author uses the English translation of this term: “machinic assemblage”. But the English translation loses the *agence*—that is, agency— component of the word, thus I prefer to use the French word in order to keep its active connotation. Cf. Braidotti, 2014: video; Phillips, 2006.

emergence in Saldanha's words—which can be approached through the methodology of the *agencement machinique*, as a way of trying to reach the intra-actions that constitute certain apparatuses. Saldanha offers a similar approach to Barad's agential realism, and offers another tool, that of *agencement machinique*, which will be also important in this research: not just to address the concept of femicide/feminicide, but also to tackle the phenomenon of femicide/feminicide, which has been considered as an *agencement machinique* of intra-actions.

It must have been 2013 when a group of young Spanish feminist physicists of the 15M Berlin organized a talk on physics and women in the bar Baiz.⁹ I attended that talk expecting to hear how feminists were doing physics from a critical perspective. The interventions in the discussions held there were focused on gender inequality issues, such as the number of women in physics departments, how much they are paid in relation to their male colleagues, and the history of women in physics. Although these topics are relevant, when I asked, during the question and answer period, how gender influences the *doing* of physics, the scholars answered with something like, “How can an atom have gender?” I was disappointed with such an answer for at least two reasons: first, they did not even consider my question to be valid, and second, the immediate objection came from their expectations about the role that philosophy plays in the scientific world. They were arguing that philosophers do not understand scientific environments and therefore their critiques are always misguided. I mention this experience not to denigrate these scientists but to highlight the widespread way in which gender studies is positioned and understood within other disciplines, and to set my opinion apart from such tendencies. With this I introduce another methodological issue which does not come directly from a new feminist materialist perspective. My research has a feminist approach, with the understanding that gender research is not necessarily and immediately feminist research. When I say that gender research is not necessarily feminist, I mean that it is not by definition committed to a critical feminist political perspective. This affirmation does not imply that non-feminist studies in gender are not valuable; some of them are very helpful to establish critical

⁹ 15-M or the indignants movement is a Spanish anti-austerity social movement. It took its name from the date May 15th, 2011, when the demonstrations against the political situation in Spain started. That night a spontaneous group of people camped in the Puerta del Sol square demanding a participative real democracy and rejecting the two-party system of Spanish politics. Baiz, at the time was located on Tor Straße.

feminist agendas and a vocabulary of gender differences, and to illustrate other political perspectives. My interest, though, is in working from a feminist standpoint, with the critical and political implications that it entails.

On this word, critical, I have read and heard the words of many feminists like Celia Amorós, Rosa Cobo, Rosi Braidotti and Rosa Medina saying that feminism is a critical theory. So, what does it mean to be “critical”? What is “critique”? What is the relation between critique and theory that makes it possible to affirm that feminism is a critical theory?

In 1937 Max Horkheimer—member of the so-called Frankfurt school—introduced the term “critical theory” to differentiate his work from what he labeled “traditional theory”: in this instance, positivism. In its own context his critical theory sprang up as the *negation* of a prior theory, and as a critique rather than a form of idealism (Jokisch, 2001:3). Perhaps that is why thinkers such as Rosi Braidotti argue that, for the Frankfurt school theorists, critique has a negative value (Braidotti, 2011b): a dialecticism that new feminist materialism avoids, since the simple negation of a prior theory is the other side of the same coin, as already mentioned. In the case of Braidotti, she prefers to use the Deleuze-Guattarian affirmative and creative understanding of critique: “[t]o criticize is only to establish that a concept vanishes when it is thrust into a new milieu, losing some of its components, or acquiring others that transform it” (Deleuze & Guattari, 1994:28). That is, critique is not a simple negation or dismissal of a concept; concepts are subject to critique and this does not discredit their transformative and political potential.

But critique in Horkheimer’s sense is also bound up with material conditions: social conditions are historical and contingent configurations of power, and consequently the natural sciences too, as far as they are immersed in a certain social-historic context. Neither social sciences nor pure sciences enjoy the presence of pure eternal laws (Jokisch, 2013:4). Critique, in this line, is more interested in identifying and describing the relational social conditions of societies. Critical theory reconfigures the relation between theory and praxis, since it is a theory not of “the given” or of “eternal essences”, but is instead interested in understanding the patterns that are socially enforced. Critique is to be understood in this work in both its Frankfurt school components and its Deleuzian ones: from the Frankfurt school I take the historical element of critique and its focus in the social world, and from

Deleuze I take its generative and dynamic movement.

Las teorías críticas muestran una posición crítica con aquellas estructuras que producen desigualdad o discriminación y tienen como objetivo explicar la realidad y desvelar los mecanismos y dispositivos de la opresión (...) Sin embargo, la labor de la teoría crítica no termina en el diagnóstico crítico de la realidad, sino en la acción política, por ser el lugar en el que desembocan las teorías críticas (Cobo, n/d:7).¹⁰

In this quote Rosa Cobo highlights the double commitment of critique, as both explicative and transformational. Although Cobo uses the word “explicative”, one does not have to engage with this move: some prefer to use the term “describe”. Using different terms, Elizabeth Grosz says:

[i]t is clear that [feminist theory] must understand and address the old, what is and has been, and the force of the past and present in attempting to pre-apprehend and control the new, and to that extent feminist theory is committed to ‘critique’, the process of demonstrating the contingency and transformability of what is given (Grosz, 2011:83).

Critique, in Grosz's words, tackles the past, is profoundly interested in the present, and in doing so enables the “becoming” of an unknown future in an affirmative and creative move. Braidotti also highlights two moves of critical theory that are worthy to feminism, stating that:

Critical theory is both the quest for and the creation of new ways of thinking. I am interested only in the system of thought or conceptual frameworks that can help us think about change, transformation, and living transitions. I want a creative, nonreactive project, emancipated from the oppressive force of the traditional

¹⁰ Here I take a political stand concerning the language criteria of the thesis. While I was told it is required in Utrecht University to translate everything into English, I keep the original quotes in the main *corpus* of the text and I introduce free translations of them in footnotes. I could have chosen not to do the translations but, strategically, that is not wise since it would leave the discussions that take place in languages other than that of the academic hegemony in the peripheries. Therefore I offer free translations as a way of enabling bridges of conversation between theorists in other languages. All translations are edited by Matthew Gleeson and, in chapters three and four, most of the translations are his. The translation for this text is: “Critical theories take a critical position toward those structures that generate discrimination and inequality, with the goal of explain reality and uncovering the mechanisms and dispositifs of oppression (...) Notwithstanding, the role of critical theory does not end in a critical diagnosis of reality but in political action, which is the *locus* all critical theories run into”.

theoretical approach (...) from sedentary logocentric thinking to nomadic creative thought (Braidotti, 2011:63-64).

The nomadic critical call of Braidotti, coming from a new feminist materialist perspective, highlights the fact that critical theory must not only focus on socio-historical conditions in a descriptive way but also take into account the materiality of embodied and embedded existence. Feminist critical theory as sketched by Amorós, Grosz and Braidotti not only dismantles systems of domination and control, but also activates a political commitment to transform the present and therefore the future; it is committed to the non-dichotomized work of theory and praxis, as two spheres which are not clearly distinguishable and separate; it suggests another kind of relation with critical theoretical traditions which avoids the simple negation of them; and, in its affirmative move, it demands sustainable and creative transformations to enable new futures.

But critique is not an unidirectional movement; it concerns the subject(s) activating that critique. Henrietta L. Moore describes the wishful desire for critics to remain independent of the process: “(...) we (critics) want our work to be relevant to this (changing) world, but we want to remain untouched in the process. We want to comment from the sidelines and retain a clear sense of who we are (...)” (Blaagaard & van der Tuin, 2014:84). However, this is impossible; critique concerns the social world, and as members of it we are targets of it too. Perhaps this is also another implication of Braidotti’s understanding of new feminist materialism as a situated epistemology: a sort of self-de-familiarization of our own structures and biases that demands self-transformation. My main method in this research is a critical reading and analysis of texts, following this understanding of critique, as well as a critical reading of the concept of femicide/feminicide.

Last but not least, I use throughout this writing the Foucauldian notion of power, according to my reading of Braidotti. Power is to be understood here not just as a restrictive and disciplinary force (*potestas*), but also as an affirmative, productive and empowering force (*potentia*) (Braidotti, 2011:4).

1.2 FEMICIDE/FEMINICIDE: A CONCEPT

[Philosophy] is not reflection, because no one needs philosophy to reflect on anything. It is thought that philosophy is being a great deal by being turned into the art of reflection, but actually it loses everything.

Gilles Deleuze and Félix Guattari, *What Is Philosophy?*

In 2009 when I was visiting a feminist seminar at the Autonomous University of Mexico City, members of that seminar condemned the results of an academic meeting held to discuss the Philosophy syllabus. In that meeting, the feminist philosopher Francesca Gargallo had argued for the necessity and viability of a “feminist philosophy” course. But the well-known philosopher Enrique Dussel—at that time head of the department of Philosophy—replied to her plea that if one was going to accept “feminist philosophy” then one also had to approve a subject called “macho philosophy”.¹¹ I open my discussion with this experience to stress two points: first, it points to a widespread misunderstanding of feminism as being the opposite of machismo (implying a sort of dichotomous correspondence), and second, it embodies the narrow understanding of philosophy that gives philosophy bad reputation. This limited vision of philosophy, along with the belief that it is separate from the social, practical and political sphere, has been partly responsible for a situation in which “(...) theory has become theory, has renamed itself as theory, only in reaction to the hijacking of philosophy by the most narrow and conservative of intellectual forces, which make the discipline as devoid of social effects and social criticism as it can possibly be” (Grosz, 2011:76). Philosophy is not deprived of the practical, social and political sphere.

In *The Future of Feminist Theory*, Elizabeth Grosz states that if one is to understand theory in its broadest and least academic sense then one has to call it philosophy (Grosz, 2011:76). Theory has become the other name of philosophy because of its perception that the tradition has been hijacked; however, I affirm that one does not have to give up the word “philosophy” just because some have devalued it. From that point, feminist theory and feminist philosophy come to be synonyms, and they will be used that way in the course

¹¹ In so-called Latin America, Dussel is recognized as one of the founders of the movement Philosophy of Liberation.

of this writing. Along these lines, I state that this research proposes a theoretical or philosophical approach to the concept of femicide/feminicide; this means distancing oneself from the dichotomous status of theory/praxis, and engaging with the affirmation that a philosophical perspective is not devoid of politics and materiality, as I will address later. By doing so I attempt to demonstrate the necessity of philosophy in general and of feminist philosophy in particular, applied in this case to the phenomenon of femicide/feminicide, a reality that traverses not just local but also global social realities. In that sense, “[f]eminist theory is a relevant and useful navigational tool in these stormy times of locally enacted global phenomena, i.e., ‘G-local’ changes” (Braidotti, 2011:9).

In *What Is Philosophy?* Gilles Deleuze and Félix Guattari affirm that philosophy is not a pure reflective activity, neither contemplative nor communicative, but rather “(...) the art of forming, inventing, and fabricating concepts” (Deleuze & Guattari, 1994:2). If philosophy is the creation of concepts, then feminist philosophy is, following Grosz, “(...) the production of concepts relevant to understanding women, femininity, and social subordination more generally, and to welcoming their transformation” (Grosz, 2011:81). Conceptual work is a political activity that entails other possible futures. Thus philosophy in general and feminist philosophy in particular entail a double-edged operation, both critical and creative, which is enabled by *concepts* (Dolphijn & van der Tuin, 2012:36). But what can be said about concepts?

CONCEPTS



Philosophers do philosophy in their work with concepts, when studying the concepts that arise in a specific practice and which are related to concepts that are at work in other practices in which they interfere.

Rick Dolphijn & Iris van der Tuin, *New Materialism: Interviews & Cartographies*

To answer the question of what a concept is, I will follow Deleuze and Guattari's understanding of concepts in *What is Philosophy?* There, the authors state that there is no concept constituted by just one element; rather, concepts are composed of at least two other concepts. This factor makes a concept a 'whole' in the sense that it totalizes its components, but at the same time it remains a fragmentary whole. In this sense it can be said that a concept is simultaneously absolute and relative:

it is relative to its own components, to other concepts, to the plane on which it is defined, and to the problems it is supposed to resolve; but it is absolute through the condensation it carries out, the site it occupies on the plane, and the conditions it assigns to the problem (Deleuze and Guattari, 1994:21).

The state of being linked to other concepts, however, does not mean that these other concepts are absorbed completely into it; it means rather that there are "zones of neighborhood" between the irregular contours of concepts, as the authors say:

There is an area ab that belongs to both a and b , where a and b ‘become’ indiscernible. These zones, thresholds, or becomings, this inseparability, define the exoconsistency with other concepts, when their respective creation implies the construction of a bridge on the same plane. Zones and bridges are the joints of the concept (Deleuze & Guattari, 1994:20).

The painting by Kandinsky above illustrates this aspect of concepts. The irregular figures compose a totality while remaining independent and creating other totalities. They share “zones of neighborhood” which are heterogeneous and with different intensities. Figures being created as concepts are in a “plane of immanence”.

Concepts are not only connected, bridging to other concepts, but are also:

connected to problems without which they would have no meaning and which can themselves only be isolated or understood as their solution emerges (...) A concept requires not only a problem through which it recasts or replaces earlier concepts but a junction of problems where it combines with other coexisting concepts (Deleuze & Guattari, 1994:16,18).

Problems are situations that need to be overcome, since they constitute unwelcome or harmful difficulties. But even though concepts are always in relation to problems, that does not mean they are the solutions to them. Neither are they strictly corporeal, but rather are “(...) the virtualities of matter, the ways in which matter can come to be otherwise, the promise of a future different from the present” (Grosz, 2011:78). Concepts are thus, in principle, incorporeal even when they are related to incarnated matter or effectuated in bodies (Deleuze & Guattari, 1994:21). Virtuality here means a possible world that has not yet come to be, even though it exists.

Concepts relate to matter also in the sense that they speak to “(...) the event, not the essence or the thing—pure Event, a hecceity, an entity (...)” (Deleuze & Guattari, 1994:21). Events are in one way or another embedded in materiality; they emerge from intra-actions, and therefore concepts are connected to materiality too. According to Grosz, events are “(...) by definition, problems insofar as they are unique, unrepeatable conjunctions of forces that require some kind of response under peril of danger” (Grosz, 2011:79). Without being exhaustive, I introduce some of the aspects of the term “event” as used by Deleuze.¹²

¹² Deleuze was strongly influenced by Alfred North Whitehead’s conception of the term “event”, and

Events are constituted by four elements: extension; intensities; individuals and “prehensions”;¹³ and, eternal objects or “ingressions” (Livesey, n/d).¹⁴ These four components, in other words, respectively mean the following: that events both occur in, and *produce*, time and space; that they have intrinsic properties; that they are affected relations of entities; and that they are modified by, and in turn modify, objects “within” them. Following such a conception, one can say that an event is a complex arrangement of particular forces or entities intra-acting, and in that way is in close relation to Barad’s notion of a phenomenon, as stated in the previous chapter.

Like events, concepts also have a history for Deleuze and Guattari.¹⁵ This history, however, is not understood as being linear, but rather it zigzags: it cannot be a linear historicity since it is related to other concepts, and the history of the other concepts does not necessarily have to be the same as that of the concept at issue. Concepts also have a “becoming” in relation with the other concepts to which they are linked in the same plane,¹⁶ and which enable their transformation towards a yet unknown future (Deleuze & Guattari, 1994:18). That is why it can be said that concepts are always created from somewhere, because of their inherent relation with other concepts.¹⁷

Concepts are not discursive or representationalist, since they do not bring propositions together.¹⁸ Propositions are “(...) defined by their reference, which concerns

according to Rick Dolphijn, Deleuze connected it to Leibniz. (Personal commentary of Rick Dolphijn).

¹³ “Prehension” for Whitehead means: “(...) any (conscious or unconscious) ‘taking account’ of another, such that the prehender is affected by what is prehended” (Livesey, n/d:6).

¹⁴ In Whitehead’s terms: “The ingression of an object into an event is the way the character of the event shapes itself in virtue of the being of the object. Namely the event is what it is, because the object is what it is; and when I am thinking of this modification of the event by the object, I call the relation between the two ‘the ingression of the object into the event.’ It is equally true to say that objects are what they are because events are what they are” (Livesey, n/d:6).

¹⁵ Deleuze and Guattari have not been the only ones to underline the historicity of the concept. Michel Foucault and Friedrich Nietzsche have also tackled that point and have worked on how to trace or to make visible the historicity of concepts. Nietzsche used the term “genealogy” (*Genealogie*) as a method of analyzing concepts, thus avoiding the use of origin (*Ursprung*); Foucault on the other hand, influenced by Nietzsche’s term, introduced “archeology” as a non-linear path to historicity. This activity aims, by working through concepts, to make visible the role of discourse in social practices.

¹⁶ “Deleuzian “becoming” is the affirmation of the positivity of difference, meant as a multiple and constant process of transformation” (Braidotti, 2011:246) and this transformation is the possibility of another future.

¹⁷ This reminds me of the words of the feminist philosopher Celia Amorós: “Nadie piensa en el vacío, menos una feminista” (No one thinks in a void, much less a feminist).

¹⁸ The epistemological issue of representation has a long history, and it deals with the ontological dualism of representations and what they intend to represent. There are at least two “traditions”: the realist approach, which states that knowledge represents pre-existing “phenomena”; this representation, according to Barad, implies the belief that the “thing” being represented is totally independent of the practices of representation.

not the Event but rather a relationship with a state of affairs or body and with the conditions of this relationship” (Deleuze & Guattari, 1994:22). A concept is in any case, as already stated, in relation with the intra-actions from which events emerge.

To sum up and to link the discussion specifically to femicide/feminicide, the nature of a concept, according to Deleuze and Guattari, has six complex characteristics:

- 1) The components of a concept are themselves other concepts. This composition is sketched by the history and “becomings” of its components. In the case of femicide/feminicide, the other component concepts are patriarchy, sex-gender system, sex, gender, woman, violence, and gender violence. Each of these elements has its own temporality and historicity.
- 2) The components of a concept are inseparable within itself; any small change would provoke a new concept. What characterizes the components of a concept is their endoconsistency (internal consistency) and exoconsistency (external consistency). These components of the concept femicide/feminicide have emerged as a necessary *agencement machinique*; if one removes one of these elements, femicide/feminicide is transformed. For instance, removing the concept of woman changes the political relevance of this concept and transforms it completely into something yet unknown.
- 3) The concept is a continuous intra-action of components that are grasped intensively. These intensive features are “variations” (neither constants nor variables) established according to their “neighborhood”. This means that a concept is not fixed once and for all; it is dynamic, continuing in transformation. All of the concept components of femicide/feminicide in neighboring intra-actions are held intensively but not once and for all. This concept constantly emerges from its other constitutive concepts, which means that this concept is never static.
- 4) A concept is an act of thought, one that is incorporeal or “virtual” but incarnated and effectuated through bodies and events. Femicide/feminicide speaks to the phenomenon or event of the killing of certain subjects identified as women.
- 5) The concept is both relative and absolute; here, absolute does not have to be

Constructivism, on the other hand, does not assume that representations are a mirror of “phenomena” but that they *mediate*. In both cases the problem is that both maintain a separation between representation (language/meaning/subject) and that which is being represented (matter/reality/object): “(...) both continue to install the distance between subject and object ‘as the very condition for knowledge’s possibility’” (Barad cited in Hinton, 2013:172).

understood as meaning static and hierarchical, but rather in the sense of actively totalizing its components and identifying itself as a certain concept and not another. The point in which the concept intensively grasps its components makes the concept femicide/feminicide absolute, and at the same time it is relative to other concepts, to the concepts these are related to, and to the problems these other concepts speak to. For instance, the concept of femicide/feminicide remains relative to the other problems the concept of “woman” speaks to, and to other neighboring concepts this concept of woman holds.

- 6) A concept is not reducible to discourse or representation. Therefore the concept of femicide/feminicide is not a definition.

If concepts do not grasp the essence of things or events, and if they are not propositions susceptible to intentionality, why are concepts important? How should concepts matter? Grosz says that concepts are “(...) what we produce when we need to address the forces of the present and to transform them into new and different forces that act in the future” (Grosz, 2011:80). Concepts, because of their transformative power, are necessary in order to act in the present and to develop new scenarios. Therefore, one can argue against the opinion that philosophy is separate from the practical world; the understanding of concepts just sketched offers an insight into why philosophy is a creative activity that enables the tools of and for the present, and opens up other possible futures, this being a political stance.

Feminist theory—as philosophy and as the creation of new concepts—in particular is of special interest here because it “(...) is essential (...) as the addition of ideality, incorporeality, to the horrifying materiality, the weighty reality, of the present as patriarchal, as racist, as ethnocentric, a ballast to enable it to be transformed” (Grosz, 2011:81). The enabling of transformation enacts the political character of feminist philosophy and highlights its necessity. In this terrain, Grosz suggests, feminist philosophy is the invention of *new* practices, values and techniques that reorient problems and open up new concerns other than the ones established by patriarchal, racist and colonialist theorists. This understanding of feminist theory as a “(...) critical deconstruction [that] moves on to the active production of alternatives” (Dolphijn & van der Tuin, 2012:22) is, in this thesis, based upon a new feminist materialist methodology, which is a practical philosophy

embedded in the material and situated world (Dolphijn & van der Tuin, 2012:88).

By focusing on the concept of femicide/feminicide I aim to follow this line of thought and give an account of the political and practical commitment of philosophy in general, and more precisely of feminist philosophy, affirming that concepts can be seen as traversing the dualism of theory and praxis. The concept of femicide/feminicide appears as a feminist philosophical concept that attests to the relationship between theory and political and social realities. This concept not only sheds light on an ultimate outcome of a certain system of domination, but in doing so enables the production of alternatives to transform the present.

In the course of this research, I hope then to illustrate the role and relevance of philosophy in the social sphere. The analysis of femicide/feminicide will be developed along this line, in an effort to show that concepts are related to, emerging from, and practiced in political and social reality—in this case, through the legal sphere, in which concepts are playing an active role in the enforcement of legal categories.



Fig. 3. Haiiro Trash (2012) STI, Rob & Erik Hillenbrink

CHAPTER 2: CARTOGRAPHY OF THE CONCEPT FEMICIDE/FEMINICIDE

This chapter does not pretend to be an exhaustive global cartography of femicide/feminicide. For the purpose of this work, I consider it important to briefly introduce this concept in different geographical locations in order to situate it and offer an overview of its political configuration in different areas of the planet. Thus, I aim to show the relevance of the situated naming of concepts, which reveals the relativity of concepts but at the same time opens up their universality. I will focus especially on how this concept was introduced and its current legal situation—the movement from concept to legal categorization. I choose certain geographical locations according to political and personal interests. With the USA-UK I considered it important to tackle the context in which this concept was born, and to highlight the fact that it was first formulated in the framework of the so-called “first world”. In doing so, I aim to help dismantle the widespread notion that femicide/feminicide only occurs in “the countries of the South” or “third world countries”. I deal with so-called Latin America because one cannot speak of femicide/feminicide nowadays without taking into account the great contributions on this subject that Latin American feminist theorists, activists and politicians have offered. One can view their contributions as helping to break down “(...) the hierarchies of knowledge and challenge claims about unidirectional (North-to-South) flows of traveling theories” (Fregoso, 2010:5). I tackle Europe because of its political influence and because it is the context in which I have done my Master’s degree in gender studies. I speak of the UN even though this does not represent one specific location, in order to show that femicide/feminicide occurs all over the world and that it is important to take into account the debates on this subject on an international level.¹⁹ Finally, the narrative of this cartography has to be read according to what has been discussed in the previous chapter; the apparent linearity of the narrative does not capture the fluid encounter of multiple temporalities, and the static appearance of locations does not encompass the complexity in which those “pieces of matter” are being configured, socially and politically.

¹⁹ I am aware, nevertheless, that other contexts such as Asia or Africa are significant and powerful to analyze, but as I have mentioned, my main aim is not an exhaustive cartography.

2.1 THE UNITED STATES OF AMERICA AND THE UNITED KINGDOM

What is not named does not exist.
Rudolf Steiner

Men are afraid that women will laugh at them.
 Women are afraid that men will kill them.
Margaret Atwood

In 2010 almost 1700 women in the U.S were killed by a male intimate partner (VPC, 2012). In 2014 at least 16 women died from domestic violence just in Minnesota (MCBW, 2014). Also in 2014, 150 femicides/feminicides were committed in the UK; an average of 2 women per week are killed in Britain (Jiménez, 2013:57).²⁰

It is not always absolutely true that what does not have a name does not exist; it has been said, for instance, that femicide/feminicide is a new word for an old barbarism (Atencio, 2015:15). But the fact that women throughout history have been killed by men because they are women does not imply that those killings were always considered a form of brutality. To name is important in order to make visible such cruelties against women, while to conceptualize is to politicize such cruelties. The concept of femicide/feminicide does not just evidence particular crimes but also contributes to activating political action and intervention against these cruelties.

Diana Russell says that she first heard the word “femicide” in 1974 from an English friend, who told her that the American writer Carol Orlock was planning to title an anthology with that word. But the anthology never came out, and Russell did not know in what sense this word was planned to be used. Nevertheless, she introduced it in the International Tribunal on Crimes against Women, conducted in Brussels in 1976, without defining it, though it was understood to refer to a hate killing perpetrated by men against females (Russell, 2011). It was only in 1992 that she, together with Jill Radford, defined femicide as a form of sexual violence: “(...) the misogynous killing of women by men

²⁰ In 2010 the FBI reported 1800 killings of women, but in only 1669 cases the relation of the victim/murderer was determined, *cf.* Violence Policy Center. Each year an average of 1300 women age 18 or older are killed by intimate partners in the U.S *cf.* National Center for Injury Prevention; *cf.* Catalano; The Minnesota Coalition for Battered Women. For UK also *cf.* McVeigh. In any case the numbers can vary according to the definition of femicide/feminicide. In the case of USA, the cases that are taken into account are just intimate femicide/feminicide. This point will be elaborated on later, because it is here that a limited understanding of the concept femicide/feminicide leads to limited legal categorizations.

(...)” (Radford & Russell, 1992:3).²¹

Diana Russell was born in South Africa, and received her PhD in Social Psychology at Harvard University. She worked for many years researching rape, especially in the USA and in South Africa; but she also worked on other issues on violence against women. Her experience in that field caused her to become interested in femicide when she first heard the term. Meanwhile Jill Radford, based in England, worked for many years on male violence. In 1980 she joined the Winchester Women’s Liberation Group, which was engaged in fighting against male violence, especially in the English context. One year later, one of her friends and a member of the group, Mary Bristow, was killed by her ex-partner; his “motive” was Mary’s refusal to return to a relationship with him. This situation convinced Radford that the killing of her friend and those of other women in similar situations were not common homicides but the result of a system of male violence; therefore she moved to London to work with Women against Violence against Women (WAVAW). There she gained a scholarship from the Greater London Council to research the problem of male violence in London. Near the end of this research, Radford met Russell and they started working together on the first anthology on femicide: *Femicide. The Politics of Killing Women*, published in 1992.

Radford & Russell focused their researches on femicide in their own contexts, England and the USA mainly. They mostly focused on femicide within marriage or within relationships (intimate femicide): for example, the case of Jane Asher, who was killed by her husband in Winchester in the 80’s; or the several cases that Russell compiled in her research between 1977 and 1982 on rape within marriage in San Francisco. But there were other cases at that time that shed light on other kinds of femicides besides the intimate, both in the USA and UK, such as those committed by Jerry Brudos or “The shoe fetish Slayer”, who, between 1968-69 in Oregon, killed four women, wearing their shoes and masturbating after killing them; Edmund Kemper or the “co-ed killer”, a necrophiliac who, between 1972-73 in Santa Cruz, California, raped and killed six young women, as well as his own mother and a friend of hers; Ted Bundy, who, between 1974-78, killed at least 30 women in different places all over the USA; Peter Sutcliffe or “the Ripper of Yorkshire”, England, who

²¹ For a broader tracking of the development of the concept in English cf. Laporta, Elena. Evolución del concepto. Un anglicismo que se desarrolló en América Latina. In: Atencio, 2015.

between 1975-81 killed 13 women, most of whom were prostitutes; Robert Black, who between 1981-1986, in the UK, raped and killed at least four girls between 5 and 11 years old.

Even when all these criminals were jailed and some of them, such as Bundy, condemned to death, others such as Kemper were soon released because of good behavior in jail. Many others were treated as mentally disabled and served their sentence in mental hospitals (*cf.* Atencio, 2015). In any case, these killers committed a particular crime against women which had no name before the law; the gender specific elements of these crimes were overlooked, but one can classify them as sexual serial femicides/feminicides or systemic sexual femicides/feminicides, for instance. I have heard in some marches the slogan “A violent man is a healthy child of patriarchy”: these words resonate in the absence of recognition of these gender-based crimes or femicides/feminicides. It is interesting that even though femicide was born as a concept in the contexts of the USA and the UK, it has not been codified as a criminal offence in either country. The US federal law known as the Violence Against Women Act (VAWA), which was reauthorized on March 7th, 2013 and extended to cover gays, lesbians, transsexuals, immigrants and Native Americans, does not include any language concerning femicide nor violence ending in murder. The killing of a woman because of her gender would not be legally distinguished and the perpetrator would not necessarily receive a heavier sentence. The same is true in the UK: there is no specific offense under the name “gender violence” or femicide, although some forms of gender violence are considered crimes.

2.2 LATIN AMERICA

Si bien el feminicidio es una cuestión global, éste tiene diferentes formas de presentarse.²²

Julia Monárrez, *Trama de una injusticia*

In contrast to the continuing failure of efforts to get U.S. feminists to adopt the term femicide, the concept is widely used in many Latin American countries (...) What accounts for the differences in the

²² “Feminicide is a global issue, but it presents itself in different forms”.

responses of U.S. and Latin America to the term femicide—and the activism that it has inspired—is a total mystery to me.

Diana Russell, *Vienna declaration on femicide*

At least six women are murdered by femicide/feminicide in Mexico each day; each 15 hours a women is killed in Honduras; between 2000 and 2010 approximately 12 women were murdered in Brazil per day.²³

The journalist Margarita Cordero has reported that the term “feminicidio” (“feminicide”) was first used in Latin America in the mid-80’s in the Dominican Republic by the feminist movement and the organized women’s groups’ campaigns against violence towards women. Almost a decade later the Mexican feminist and anthropologist Marcela Lagarde introduced this term into academia, translating “femicide” into Spanish as “feminicidio”, highlighting the fact that the former in Spanish merely implies the feminine equivalent of homicide, and could refer to any killing of women, thus depoliticizing the concept as it was conceived. The concept of femicide/feminicide is intended to apply to certain killings of women, those which are gender-based; it is not meant to simply differentiate killings by the gender of the victims, distinguishing between homicides for males and femicides/feminicides for females. The political relevance of the concept of femicide/feminicide is that it highlights a false universalism in the use of homicide, and thus unveils a system in which the universal is thought of as neutral and totalizing, and which indeed obscures the fact that such universality covers a hierarchical structure in which the subjects “women” are placed on one side of that power structure, that of the subordinated.

In 2000 Ana Carcedo and Montserrat Sagot in Costa Rica introduced the subject into the theoretical sphere in Central America, adopting the literal translation of the English term: “femicidio”. The choice of terms in translating “femicide” has generated a heated debate amongst theorists and activist in Latin America and there is no consensus about it. In some cases it has implied a breakdown of networks; for example, Russell recounts that in 2008 she attended a conference in El Salvador on femicide, and later she realized that the users of the term “feminicidio” had not been invited to attend (Russell, 2011). This example offered by Russell illustrates the dialecticism that the new feminist materialism aims to

²³ Matloff, 2015; Sánchez, 2013; Pereira, 2015.

avoid; these Oedipal structures generate competition and leave out other perspectives, instead of creating bridges and generating conversations, which is one of the methodological aims of my writing. But the theoretical production on “femicidio” has activated the traveling theory in a direction from “South” to “North”: for instance Brazil uses “feminicídio”, Italy “femicide”, France “fémicide”; Rosa-Linda Fregoso and Cynthia Bejarano, in their book *Terrorizing Women: Femicide in the Americas*, introduced “femicide” into English, thus echoing the large theoretical production and debates taking place amongst Latin American theorists and activists.

According to Julia Monárrez:

Para definir el término feminicidio se parte de sus raíces etimológicas. Las dos raíces latinas de la palabra que nos ocupan son *fémina* –mujer– y *caedo, caesum*–matar. La palabra en latín para mujer no es *femena*, sino *fémina*, con “i”. Al unirse dos palabras para formar otra, se respetan las raíces de las dos y no sólo se pegan, sino que se pueden poner vocales de unión según el caso en el que estén las palabras. Por eso, se dice *biología* y no *bioslogía* y también *homicidio* y no *homocidio*. La “i” es la letra de la unión de las dos palabras que viene de la tercera declinación del latín *feminis*, que quiere decir “de la mujer”; entonces la muerte de la mujer sería *feminiscidum*, y de allí pasamos a la palabra *feminicidio*, que es perfectamente correcta para el español. Ahora bien, la palabra *femenino*, es un adjetivo –también proviene de la palabra *fémina*– se decía *femininus*, pero pasó al español como *femenino* porque nos resulta así más fácil de pronunciar (...) *Feminicidio* significaría entonces la muerte del ser *femenino* o con características de mujer, sea o no una mujer. La palabra *femicidio* no existe (...) (Monárrez, 2009:34-35).²⁴

According to this author, “feminicidio” seems to be the term that works most adequately for Spanish. Highlighting the *femininus* element of it is crucial to understanding why all *femicides/feminicides* are killings of women but not all killings of women are

²⁴ “To define the term *femicide* one must start from its etymological roots. The two Latin roots of the word at issue are *fémina* –woman– and *caedo, caesum*– to kill. The Latin word for woman is not *femena* but *fémina*, with an ‘i’. When combining two words to make another, one respects the roots of the two and does not just stick them together, but rather vowels of conjunction can be added according to the particular case of the words. That is why one says *biology* and not *bioslogy*, and *homicide* rather than *homocide*. The ‘i’ is the conjunction letter of the two words that comes from the third declination of the Latin *feminis*, which means ‘of the women’; therefore the death of the woman would be *feminiscidum*, and from there we pass to the word *femicide*, which is perfectly correct in Spanish. Now, the word *feminine* is an adjective –which also comes from the word *fémina*– it was said *femininus* but it passed into Spanish as ‘*femenino*’ because it ends up being more easy for us to pronounce (...) *Femicide* would mean, then, the death of the *feminine* being, or the being with characteristics of a woman, whether or not this being is a woman. The word ‘*femicidio*’ does not exist (...)”.

femicides/feminicides: that is to say, *not all killings of women are motivated by the construction of gender relationships*. This is *the feminist political stance* behind this concept, which gives it its power and its reason to be (I will discuss this point later in chapter three). The “feminine”, as I will pick up later, seems to be the nodal point of the discussion on this subject. Lagarde adds “(...) no se trata sólo de la descripción de crímenes que cometen homicidas contra niñas y mujeres, sino de la *construcción social* de estos crímenes de odio, culminación de la violencia de género contra las mujeres(...)” (emphasis mine. Russell, 2006:12).²⁵

Following these inquiries, one can affirm that “femicide” in English also embraces these discussions and reflects the *femininus* component that this concept brings to the fore. But some theorists prefer to make both terms—femicide/feminicide—interchangeable, advocating for the joining of forces against the same target instead of the fracturing of possible networks. Even when I prefer the use of “feminicide” because it helps to highlight the *femininus* which is at stake in this concept, throughout this thesis I strategically use both terms in order to avoid conceptual hierarchies or to give the appearance of supporting one side of the discussion in a power war, which could (again) lead to the blocking of conversations. I follow Elena Laporta when she affirms that regardless of whether individual theorists choose to use both terms or not, most agree at least on four elements:

- 1) All are based on the work of Russell. They agree that the causes of femicides/feminicides come from a patriarchal system, which imposes gender roles and establishes unjust social distribution of power between subjects according to such gender roles. They agree on the androcentrism that generally prevails in the institutions that investigate and prosecute these crimes, because of the lack of a feminist perspective to address them from the level of the criminologist to that of judges.
- 2) They condemn the lack of legislation and public policies to deal with such crimes, and the resistance of different government bodies to moving forward on the subject.²⁶

²⁵ “(...) it is not just about the description of crimes committed by murderers against girls and women, but it also has to do with the social construction of these hate crimes, the culmination of gender violence against women(...)”.

²⁶ For an extended overview cf. Laporta *op.cit.*

The specificity of the series of murders of girls and women that have been occurring in Ciudad Juárez in Mexico since 1993, the “feminicidios de Ciudad Juárez” (see chapter one), includes kidnapping, torture, mutilation, rape, murder, and the dumping of the dead bodies in inhospitable places; most of the victims have been young women, brown-skinned, economically marginalized, and often workers or students (Monárrez, 2009:49). The systematicity of these feminicides mobilized the family members of the victims as well as activists, who managed to place international attention on these “feminicidios sexuales sistémicos” (systemic sexual feminicides).²⁷ According to Julia Monárrez, following Lagarde, this kind of killing is supported by a masculinist State, thus in her definition she stresses the responsibility of the state to work on guaranteeing the lives of its citizens and the enforcement of justice. In other words, in the face of these specific crimes, the state is not just in charge of women’s security but also of offering justice, and when the state fails to do so, it becomes the accomplice of such impunity.²⁸ Because of the state impunity concerning the feminicides of Ciudad Juárez, family members and activists have managed

²⁷ A classification by Julia Monárrez which consists in: “(...) el asesinato de una niña/mujer cometido por un hombre, donde se encuentran todos los elementos de la relación inequitativa entre los sexos: la superioridad genérica del hombre frente a la subordinación genérica de la mujer, la misoginia, el control y el sexismo. No sólo se asesina el cuerpo biológico de la mujer, se asesina también lo que ha significado la construcción cultural de su cuerpo, con la pasividad y la tolerancia de un estado ausente. El feminicidio sexual sistémico tiene la lógica irrefutable del cuerpo de las niñas y mujeres que han sido secuestradas, torturadas, violadas, asesinadas y arrojadas en escenarios sexualmente transgresores. Los asesinatos por medio de los actos crueles fortalecen las relaciones sociales inequitativas de género que distinguen los sexos: otredad, diferencia y desigualdad. Al mismo tiempo, el Estado secundado por los grupos hegemónicos, refuerza el dominio patriarcal y sujeta a familiares de víctimas y a todas las mujeres, a una inseguridad permanente e intensa, a través de un período continuo e ilimitado de impunidad y complicidades al no sancionar a los culpables y otorgar justicia a las víctimas”. Translated: “(...) the murder of a girl/woman by a man, in which all the elements of an unequal relation between the sexes are contained: the gender superiority of man facing the gendered subordination of woman, misogyny, control and sexism. Not only is the biological body of a woman killed, but that which the social construction of her body has signified is also killed, with the passivity and tolerance of an absent State. The systematic sexual feminicide has the irrefutable logic of the bodies of girls and women who have been kidnapped, tortured, raped, murdered and thrown into sexually transgressive scenarios. The murders by cruel acts strengthen the unequal social relations of gender that distinguish the sexes: otherness, difference and inequality. At the same time, the State, seconded by hegemonic groups, fortifies patriarchal control and subjects the family members of the victims and all women to a powerful and permanent insecurity throughout a continuous and unlimited period of impunity and complicity, since it does not penalize the guilty nor grant justice to the victims” (Monárrez, 2006:375-76).

²⁸ In her second definition of feminicide Lagarde adds to it the impunity of States, therefore she calls feminicides State crimes; it is the State that has to guarantee the life and security of women (Russell, 2006:12). Russell, though mostly agreeing with Lagarde’s theorizations, rejects this definition of feminicide as a State crime; she considers that this definition is problematic, since if a case of femicide/feminicide receives legal justice, this does not mean it stops being a femicide/feminicide. Laura Rita Segato, on the other hand, argues that feminicides do not have to be seen as caused by impunity, but as producers and reproducers of impunity; feminicides are crimes of “Second State”, “parallel State” or “Second reality”. Cf. Segato, 2013; Lagarde, 2006.

to gain the international recognition of such crimes; this situation has prompted people to associate femicides/feminicides mainly with Mexico or Latin America, sometimes forgetting that even if these “feminicidios sexuales sistémicos” are more likely to occur in Latin American countries, many other kinds occur all over the world, as the assertion of Monárrez reminds us.

There are thirteen countries in Latin America that have legally recognized femicide/feminicide: Mexico, Costa Rica, Guatemala, Chile, El Salvador, Peru, Nicaragua, Bolivia, Honduras, Panama, Ecuador, Venezuela and Brazil. Argentina has not explicitly recognized the term, but has made a reform in its penal code concerning aggravated homicide and gender-based crimes against women. Colombia is in the same status, but in 2014 a bill was presented to codify femicide/feminicide as a crime in itself, though this has not yet been ratified. Laporta analyzes the components of these laws in two ways, according to:

- 1 Those countries which have opted for a regulation within the penal code versus those which have approved a comprehensive law.
- 2 Their definition of “gender violence”. It is on the understanding of such violence that the understanding of femicide/feminicide depends. In most cases, gender violence is only recognized in the framework of intimate relationships, therefore only intimate femicide/feminicide will be recognized.

Countries who have opted for a comprehensive law, either within the terms of a law on violence against women or not, have developed a transversal perspective: in other words, they have not just made a reform in the penal code but have introduced elements of prevention, assistance and reparation; obligations of the State; and language and concepts characteristic of feminism such as patriarchy, gender oppression, androcentrism, gender perspective, misogyny and sexism. Mexico, Guatemala, El Salvador, Nicaragua, Bolivia, Panama and Venezuela fall in this group. Other countries that have only focused on the criminal field—unidirectionality—have opted for reforms in their criminal laws: Peru, Chile, Costa Rica, Ecuador, Honduras and Brazil are in this situation (Atencio, 2015:167-170).

It is the case that the countries that have a comprehensive law are the ones that also have a broad definition of gender violence, as well as a broader definition of femicide/feminicide (Atencio, 2015:172). On the other hand, the countries restricted to

criminal codes tend to have a limited definition of gender violence, and the same is true of their definition of femicide/feminicide. Ecuador, Honduras and Brazil are exceptions: although they use a restricted approach, they have a broader definition of what is considered to be femicide/feminicide. In any case, countries that have recognized femicide/feminicide as a criminal offence differentiate its treatment from that of “homicides”: cases of femicides/feminicides receive higher sentences than ordinary homicides (*cf.* Atencio, 2015). This differentiation can be read in two ways: first, that it in fact continues with the patriarchal distinction and hierarchization of gender, and that this differentiation responds to a paternal and protective perspective on women as subjects; or, on the other hand, that the feminist discourse is working *from within* the system, and using the tools that are available in order to make visible and penalize, progressively, a system that assigns a particular and limited value to the lives of women as subjects.²⁹

On June 9th of 1994 the “Inter-American convention on the prevention, punishment and eradication of violence against women ‘Convention of Belém do Pará’” was proclaimed, and came into force on March 5, 1995. Currently 31 countries have ratified this convention. It is a legally binding instrument that establishes, among other things, that the countries subscribing to the convention must protect the right of women to a life free from violence in public and private spheres. It prescribes certain duties to state actors, such as: including and modifying legal reforms; promoting measures to prevent, penalize, and eradicate violence against women; encouraging educational, social, cultural and political programs of awareness on gender violence; and ensuring statistics and research (Department of International Law, 1994).

Along with this convention, in 2009, the Inter-American Court was the first international authority to judge a case of feminicide and sentence the Mexican State for human rights violations. “The cotton field case”, as it was named, concerned three feminicides in Ciudad Juárez, those of Esmeralda Herrera, Laura Ramos, Claudia González, and the state violence against their families (Campo Algodonero, 2015). This sentence is important in that it is the first one handed down by an international body concerning particular femicides/feminicides, in this case the “feminicidios sexuales

²⁹ For a more detailed analysis of the legal codification in each country *cf.* Laporta. El feminicidio como categoría jurídica de la regulación en América Latina a su inclusión en España. In: Atencio, 2005.

sistémicos” and their relation to the Mexican state. It is also important because it puts this political concept in international circulation. This sentence opens up the discussion of the possibility of considering codifying femicide/feminicide at an international level, which implies tackling discourses of universality and particularity. Here Braidotti's understanding of universality as a qualitative leap from the particular to the collective practice is a useful tool to consider this concept at its international level (Braidotti, 2011:115), without forgetting the non-homogeneity of this phenomenon in different locations.

2.3 EUROPE

At least 3,500 intimate partner violence-related deaths occur every year in Europe. Every day 7 women die in Europe by male domestic violence (*cf.* Christine Stix-Hackl in Laurent, 2013; Jiménez, 2013).

Although Europe, geographically speaking, includes 56 sovereign states, due to the limitations of this research I mostly refer here to the 28 members of the political organization the European Union. The astonishment of some European feminists when they hear that femicides/feminicides occur in Europe too makes me wonder: have European feminists, aside from the British, talked about femicide/feminicide within the European context? And do they want to?

On November 25, 2010 the civil association “Otro Tiempo”, based in Madrid, launched its project “Feminicidio.net”,³⁰ a feminist website specializing in information, online training (e-learning), and documentation concerning feminicide. They have developed “geofeminicidio”, an application for online quantitative and qualitative documentation of feminicides, which provides geographic references and automatically produces at least 10 reports and graphics. They say that, due to their limitations, the focus of their database, which is influenced by one developed by Julia Monárrez, is on 21 Latin American countries and Spain. However, the coordinator of this tool, Graciela Atencio, has said—and my own familiarity with “geofeminicidio” (geo-feminicide) makes me affirm—

³⁰ This project and platform has been coordinated since then by Graciela Atencio.

that it is suitable for and adaptable to coordinated global work on the documentation of femicides/feminicides. This is possible because this database is structured from a broad perspective; by this I mean that it takes into consideration many factors that other databases do not consider. For instance, rather than recognizing just one type of femicide/feminicide, such as “intimate femicide/feminicide” (the only type recognized by Costa Rican law), it tries to include many different kinds of femicide/feminicide. The malleability of this tool may enable it to include the peculiarities of different geographical regions; at the same time this global documentation with “geo-referencing” will probably help to map the geopolitics of this phenomenon on a global scale. The main advantage of this tool is that it has helped to give visibility to feminicide in Europe, especially in Spain, which is one of the purposes of the cartography here of femicide/feminicide in Europe.

This association has worked intensively on awareness campaigns and on introducing the term in feminist agendas and in the political language of Spain. Just a few months ago they published the informative book *Feminicidio. De la categoría político-jurídica a la justicia universal (Feminicide. From the political-legal category to universal justice)*, in which the authors tackle the legal dimensions of femicide/feminicide locally and globally; they advocate for an international convention against femicide/feminicide and for the international recognition of it as a crime. One of the points I find interesting in this book, and which goes along with the spirit of this thesis, is that Atencio advocates for the importance of a broad database and broad understanding of feminicide because thanks to this she was able to trace a phenomenon in Spain that she otherwise would not have noted: that of “feminicide by prostitution” (*cf.* Atencio, 2015). This point shows how, again, theory and praxis are not separate, in a progressive movement, or in a hierarchical position; their intra-actions are not linear or aimed at a specific and clear end: a broad definition of the concept used in a practical tool has helped to identify a pattern in the practical sphere, which at the same time gives material for further theorizations.

The lawyer Elena Laporta, in this same text, recognizes that femicide/feminicide is not just a phenomenon in “third-world countries” and that Europe owes a debt on that subject: many women are killed in Europe because of their gender, but the covering up of such crimes under the name of homicides makes them non-existent. Therefore she sets forth the possibilities of legally codifying “feminicide” in Spain. She argues that although there

is no debate on the subject by the Spanish political authorities, nevertheless the legal and social conditions exist: Spain has the “Ley Orgánica 1/2004” of the 28th of December giving comprehensive protection against gender violence—although the understanding of gender violence is limited, being defined only in the framework of intimate partners or ex-partners. She mentions that in its 23rd edition of 2014, the Dictionary of the Royal Spanish Academy (DRAE) approved the inclusion of the word “feminicidio”, though with a limited meaning;³¹ and that bodies such as the General Council of the Judiciary have already used the word in several reports; to this I would add the fact that Spain ratified the Istanbul Convention on June 6th, 2014. Finally, Laporte considers that from a legal perspective, the incorporation of femicide to the criminal code in Spain would not imply a great problem, and that actually its codification would only be one additional step (Atencio, 2015:188-190).

Within the European context, Italy was the first European country to which the UN has applied the term “femicide” (Jiménez, 2013:35), and the use of the term femicide is widespread in the Italian feminist movement. In November 2013, Prime Minister Enrico Letta launched a “Guerra contro il Femminicidio” (War Against Femicide), which came accompanied by law 119 to combat gender-based violence, but as in the case of Spain, gender violence seems to refer solely to cases of heterosexual and recognized relationships. In any case this law has received several criticisms by NGO’S and feminists because of the paternalistic terms in which it has been declared (Lalli, 2014).

The 2015 edition of the French dictionary *Petit Robert* includes two definitions of femicide: “adj. et n. – 1855 - du radical du latin femina «femme» et -cide. Didact. 1 - Rare: Qui tue une femme. N. Un, une féminicide. 2 - N. m. Meurtre d'une femme, d'une fille en raison de son sexe. Le féminicide est un crime reconnu par plusieurs pays d'Amérique latine” (Larriaux, 2012).³² In November 2014 the feminist group *Osez le féminisme* launched a campaign for the legal recognition of femicide in France,

³¹ In 2007 Carlos Montemayor, a linguist and member of the Mexican Academy of the Spanish Language (acronym AML), asked for the inclusion of the term feminicidio, arguing for its lexical and social specificities. Unfortunately, the definition approved by the DRAE does not include the social component, nor the significance of the term gender in its feminist definition. According to the DRAE, femicide is “the killing of a woman because of her sex” (Atencio, 2015:19-23).

³² “Femicide: adj and n.–1855—from de radical Latin ‘femina’ «woman» and -cide. Didact. 1 – Infrequently used: Someone who kills a woman. N. A femicide (person who commits a femicide). 2 - N. m. The murder of a woman or girl because of her sex. Femicide is a crime recognized by many Latin American Countries”. Translation in collaboration with Kilian Laclavetine and Matthew Gleeson.

advocating for France's ratification of the Istanbul Convention (The Council of Europe Convention on preventing and combating violence against women and domestic violence) of 2011, which is a binding instrument—and which has still not been ratified by all countries.

In November 2012, the “COST Action IS1206. Femicide Across Europe” was approved by COST, an intergovernmental instrument for European Cooperation in Science and Technology. This “Action” aims to be the “(...) first-ever European coalition of experts on femicide” (COST, 2015). They have several goals, among them: to produce knowledge on the subject; to establish qualitative and quantitative European data on femicide; to promote coalitions to prevent femicide across Europe; to produce recommendations or guidelines for policy makers, legal and social policy regarding wife-murder; to monitor femicide through the creation of an European Observatory (COST, 2015). This project seems to be necessary and hopefully attainable. Nevertheless I find it striking that, in the document available to read online, their definition of femicide is limited: they are mostly considering intimate femicide. But hopefully this cross-European project is not ignoring other kinds of femicides/feminicides and will be working with a broad definition of femicide/feminicide; this will be very important in the development of their database project. In their introductory document, this organization also says that research on femicide is abundant in the USA, but they do not speak about the influence and rich productions of Latin American theorists. What kind of methodologies are they considering in order to not limit themselves to Eurocentric discussion, seeing as Latin American theorists have brought so much to the debate? Even though this project is geographically located in Europe, the phenomenon of femicide/feminicide has to be considered across borders. And because of the great political influence of Europe, the guidelines that are established by projects such as the COST Action will broadly influence the international debates on this subject. But a full discussion of this “Action” will have to wait until the first results are available.

On May 11th in Istanbul, 47 European countries adopted the “Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention)”: it came into force the 1st of August of 2014 and as of today, 17 states still have not ratified it—the UK signed, but has not ratified. It is a legally binding instrument that obligates governments of signatory countries to adopt concrete and

comprehensive plans to combat, protect women against, and ultimately eliminate all forms of gender violence. The plans are meant to include: necessary legal modifications; development of data collection and comprehensive policies; the establishment of strategies of prevention through education, awareness, and training programs; development of protection and support tools; and international cooperation and monitoring mechanisms. As briefly sketched, the subject of femicide/feminicide has not been largely discussed within the European framework, but the implementation of the Istanbul Convention can be a force to start a more committed debate on the subject, as happened in Latin America after the ratification of the Convention of Belém do Pará.

Europe has a duty in theorizing and taking actions to eradicate the killing of women because of reasons of gender, as stated in the VIII Conference on Femicide/Femicide; this was held in Brussels the 1st and 2nd of June of 2015, and organized by the German Heinrich-Böll-Stiftung. This conference, which is the result of a bi-national dialogue between Latin America and Europe in terms of violence against women, shows that the subject of femicide/feminicide demands active dialogue with other regions. In the European context, where little has been discussed and written, the recent work on “trans-national feminicides” in the German context by Sabine Maier (2015) is of great value. In this article Maier explores the German criminal system and how it obscures the killing of women in bi-national relationships, and how the perpetrators (mainly German citizens) receive lesser sentences by appealing to the differentiation between “homicides” and “murders” (with clear intentions to kill): that is to say, the “motive” of the perpetrator is what establishes the difference, as well as the sentence he/she will receive (this aspect of motives will be discussed later in chapter four). This example sheds light on the richness that the concept of femicide/feminicide can offer in a context in which it has not yet been entirely embraced and discussed, but in which the political and theoretical conditions exist (*cf.* Maier, 2015).

2.4 UNITED NATIONS

Ante la gravedad de un crimen, la respuesta no debe quedar confinada en las fronteras de los ordenamientos nacionales. La vocación de la justicia, ante los crímenes más graves, es la

universalidad. Por ello, y debido a las características propias del feminicidio, es indispensable darle una dimensión internacional.

Ana Messuti, *La dimensión jurídica internacional del feminicidio*³³

[F]emicide is a diverse phenomenon [which] should be combated taking into account the local contexts in which it occurs, including socio-economic contexts that are unfavourable for women—even more so in the case of indigenous and rural women—, factors such as economic dependence, high poverty rates, and the presence of criminal gangs and armed groups.

Urgent resolution on femicide in the European Union and Latin America

In 2013 the World Health Organization (WHO) estimated that more than 38% of violent deaths of women are committed by intimate partners. “Between 113 million and 200 million women around the world are demographically “missing”. Every year, between 1.5 and 3 million women and girls lose their lives as a result of gender based violence or neglect” (OACNUDH, 2014: xi; Hirsi, 2004; Atencio, 2015).

On July 17th of 1980, 67 countries gathered in Copenhagen and signed the “Convention on the Elimination of All forms of Discrimination against Women”, CEDAW; the following, year after ratification by 20 countries, it came into force. On December 20th of 1993, United Nations implemented the “Declaration on the Elimination of Violence against Women”.

In 2005 Patricia Pessar used the term femicide in the meeting on International Migration and Development in Latin America and the Caribbean. In 2006 the term femicide was used in *Gender statistics in UNIFEM*. But it was only on June 23, 2009, according to the UN online files, that the first report by the organization containing the term femicide was made. The report, made by Yakin Ertürk, concerned the causes and consequences of violence against women, and gave a historical introduction to the concept of femicide and a broad definition of it. She mentions different kinds of femicides and covers the case of Ciudad Juárez. In 2011 this term was introduced again in the UN periodical report on Italy. In 2012 Rashida Manjoo made a new report on the same subject as Ertürk, which became the first UN report focused on gender-based killings. In 2013 in the UN Office in Vienna, a one-day symposium on femicide (this was the term used in the meeting) was organized on

³³ “Faced with the seriousness of a crime, the response should not confine itself to the borders of national regulations. The duty of justice, before the most serious crimes, is universality. Because of this, and given the particular characteristics of feminicide, it is indispensable to give it an international dimension”.

the occasion of the International Day for the Elimination of Violence against Women by the Vienna Liaison Office of the Academic Council on the United Nations System; this was the first meeting of its kind in the UN. The participants agreed that the UN must explicitly include gender-based killing, and use the term femicide/feminicide, in the “Declaration on the Elimination of Violence against Women”. The UN offers a broad definition of femicide in their 2012 text *Understanding and addressing violence against women* by WHO; and in 2014 they published *Modelo de protocolo latinoamericano de investigación de las muertes violentas de mujeres por razones de género (femicidio/feminicidio)*.³⁴

Ana Messutti, an Argentinian lawyer, in her text *La dimensión jurídica internacional del feminicidio*, explores the viability and importance of tackling femicide/feminicide at an international level. She takes Giorgio Agamben’s figuration of *Homo sacer*, referring to those subjects who in archaic Roman law were neither subject to divine law nor to human law, but instead were outside the political community; this enabled violence with impunity over *Homo sacer*. This figuration serves Agamben to state that there are lives that do not deserve to be lived (*Homo sacer*) and others that do deserve to be lived, a differentiation that is reflected by the politics of impunity. Messutti takes up this idea and claims “(...) cuando no se tipifican ni se sancionan las agresiones contra determinados sujetos, se está negando valor a esos sujetos” (Atencio, 2015:38);³⁵ therefore she stands up first for the national recognition of feminicide as a criminal offence. To make this recognition three elements are necessary: a) a person with rights, b) another person who infringes those rights, and c) a State with responsibilities concerning the violation committed. But when one is dealing with crimes of a greater magnitude, such as the Holocaust, the response to such violations cannot be constrained to national instruments: one appeals to universality,³⁶ that is to the international level, because in such cases the state instruments are not sufficient, or in many cases it is the very same state which is committing the violations. Messutti proposes that just such an international dimension be applied to feminicide. She explores three possibilities for the codification of feminicide in

³⁴ “Latin American model protocol for research on the violent deaths of women because of their gender (femicide/feminicide)”.

³⁵ “(...) when aggressions against certain subjects are neither defined nor punished, these subjects are being denied any worth”.

³⁶ Here I take Braidotti’s understanding of universality as “(...) a qualitative leap, from individual experience to collective practice (...)” (Braidotti, 2011:115).

the International Court on crimes: 1) as crimes against humanity, 2) as practices evaluated as genocide, and 3) with an independent typology. She ultimately advocates for the third option, as I will discuss more in chapter four.

The UN has a declaration against violence towards women, recognizes femicide/feminicide as an expanding phenomenon, and gives a broad definition of it; the International Court of Justice already has criteria against universal crimes. A call for an international convention and work towards the international recognition of feminicide as a criminal offence, as Ana Messuti and the members of *Femicidio.net* advocate, is a possible scenario.

2.5 FINAL CONSIDERATIONS

I have talked about how the concept of femicide/feminicide has been introduced in different contexts and how it has entered into legal terms or not. Nevertheless I have not offered a deep analysis of the terms in which the codifications were established in each case, because of the limitations of this research and because my primary concerns are others. The factor of language is important in law and in the codification process, as can be seen in specific cases: different understandings of concepts such as “gender violence” can implicate a narrow definition of femicide/feminicide or a broad one. It is important to me to highlight the importance of understanding first the concept femicide/feminicide in order to evaluate its transition to a legal category and from there to analyze and criticize its landing in the terrain of jurisprudence. The emphasis on codification is not because I—and I am not the only one who feels this way—think that this factor resolves the problem of the killings of women, and neither is the purpose of my analysis to offer answers to that problem. In my case, I am more interested in the way concepts speak with/to the problems and how they traverse theory and practice; and specifically the concept of femicide/feminicide, as hopefully will become clearer in the next chapters.

CHAPTER 3: ANALYZING THE CONCEPT

[I]f there is no compelling reason to use the same definition as that used by those with whom one disagrees, then it makes sense to define a phenomenon in a way that best fits feminist principles.

Diana Russell, *Making Violence Sexy*

In chapter one I have stated the characteristics of concepts, one of which is that they are composed of other concepts. In this section I will analyze the concept of femicide/feminicide and its constitutive concepts. I am focusing mainly on the constitutive concepts of “patriarchy”, “women”, and “gender violence.” The first two are concepts which were used before being reappropriated by feminists and charged with other political significations that highlight the hierarchical implications that these concepts carry. In the case of “gender violence”, this combination of concepts is a feminist creation, though the concept of “violence” has an older history of use. There are many definitions of femicide/feminicide, each of which depends on the understanding of these three concepts and the way they are configured. I will introduce here some of these definitions, not with the aim of taking a stand in favor of just one, but instead offering an overview and an image of the interplay of the other component concepts in forming the definition of the concept at issue. As stated in chapter one, a concept is not reducible to discourse or representation, therefore my aim here is not to give a definition, but for the aims of this thesis to position the complexity that the concept femicide/feminicide gives rise to and thus to show the dynamism rather than fixity that this concept entails.

The concepts here have to be analyzed and thought of as an *agencement machinique*: not as clear concepts gathered together in a certain way and with clear boundaries, but as concepts in motion, intra-acting, through which femicide/feminicide emerges. A summary of definitions are listed below to offer this short overview of what one is dealing with when discussing the concept of femicide/feminicide. The years after the name of each author correspond to the year in which this definition was first published or known to have been used by the author. Femicide/feminicide is:

Jean Caputi and Diana Russell, 1990	“(…) the murder of women by men motivated by hatred, contempt, pleasure, or a sense of ownership of women” (Russell, 2001:14).
Jill Radford and Diana Russell, 1992	“(…) the misogynous killing of women by men (…)” (Radford & Russell, 1992:3).
Diana Russell, 2001	“(…) the killing of females by males <i>because</i> they are females (…)” (Russell, 2011).
Marcela Lagarde, 1994	“(…) conjunto de delitos de lesa humanidad que contienen los crímenes, los secuestros y desapariciones de niñas y mujeres en un cuadro de lapso institucional. Se trata de una fractura del estado que favorece la impunidad. El feminicidio es un crimen de Estado”. Se produce en condiciones de guerra y de paz (Russell & Harnes, 2006:20). ³⁷ “(…) el genocidio contra mujeres y sucede cuando las condiciones históricas generan prácticas sociales que permiten atentados violentos contra la integridad, la salud, las libertades y la vida de niñas y mujeres” (Lagarde, 2008:216). ³⁸
Julia Monárrez, 1998	“(…) toda violencia letal que ocasiona la muerte de la mujer por constreñimientos del género (…) <p>no todas las formas de asesinarlas son iguales, por eso es necesaria una clasificación del feminicidio para así determinar su especificidad” (Monárrez, 2009:40).³⁹</p> <p>“(…) el asesinato de mujeres por razones asociadas con su género. El feminicidio es la forma más extrema de violencia de género, entendida esta como la violencia ejercida por los hombres contra las mujeres en su deseo de obtener poder,</p>

³⁷ “(…) the entire set of crimes against humanity that includes kidnappings and disappearances of women and girls in a context of institutional neglect. It has to do with a failure in the state that allows impunity. Feminicide is a crime of the State.” It occurs in situations of both war and peace.

³⁸ “(…) the genocide of women, which occurs when historical conditions generate social practices that allow violent attacks on the personal integrity, health, liberties and lives of women and girls”.

³⁹ “(…) all lethal violence that causes the death of women because of the constraints of gender (…)

not all forms of killing women are the same, and because of this it is necessary to codify feminicide, in order to determine its specificity”.

	<p>dominación o control” (Femicidio.net, 2012:4).⁴⁰</p> <p>“(…) el asesinato de una mujer cometido por un hombre, donde se encuentran todos los elementos de la relación inequitativa entre los sexos: la superioridad genérica del hombre frente a la subordinación genérica de la mujer, la misoginia, el control y el sexismo. No sólo se asesina el cuerpo biológico de la mujer, se asesina también lo que ha significado la construcción cultural de su cuerpo, con la pasividad y la tolerancia de un estado masculinizado” (Monárrez, 2006:431).⁴¹</p>
Ana Carcedo y Montserrat Sagot, 2000	<p>“(…) la forma más extrema de terrorismo sexista, motivado mayoritariamente, por un sentido de posesión y control sobre las mujeres” (Carcedo, 2000:12).⁴²</p>
Rosa Linda Fregoso y Cynthia Bejarano, 2010	<p>“(…) the murders of women and girls founded in a gender power structure (...) [it is] gender-based violence that is both public and private, implicating both the state (directly or indirectly) and individual perpetrators (private or state actors); it thus encompasses systematic, widespread, and everyday interpersonal violence (...) [it is] systematic violence rooted in social, political, economic, and cultural inequalities. In this sense, [its analysis is not only focused] on gender but also in the intersection of gender dynamics with the cruelties of racism and economic injustices in local as well as global contexts” (Fregoso, 2010:5).</p>
United Nations, 2012; 2014	<p>“(…) generally understood to involve intentional murder of women because they are women, but broader definitions include</p>

⁴⁰ “(…) the murder of women for reasons associated with their gender. Femicide is the most extreme form of gender violence, which is understood to mean the violence exercised by men against women in their desire to gain power, domination or control”.

⁴¹ “(…) the murder of a woman committed by a man, in which one finds all of the elements of the inequitable relation between the sexes: the gendered superiority of men in the face of the gendered subordination of women, misogyny, control and sexism. Not only is the murder of the biological body of the woman committed, but also the murder of what the cultural construction of her body has signified, with the passivity and toleration of a masculinized state”.

⁴² “(…) the most extreme form of sexist terrorism, motivated mainly by a sense of possession and control over women”.

	<p>any killings of women or girls” (WHO, 2012).</p> <p>“(…) la muerte violenta de mujeres por razones de género, ya sea que tenga lugar dentro de la familia, unidad doméstica o en cualquier otra relación interpersonal, en la comunidad, por parte de cualquier persona, o que sea perpetrada o tolerada por el Estado y sus agentes, por acción u omisión” (OACNUDH, 2014:16).⁴³</p>
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In these definitions one can observe the other concepts that are at stake in the concept of femicide/feminicide, such as: woman, gender, gender violence, misogyny, sexist terrorism, power, system of masculine domination. I will come back to these definitions while analyzing the other three constitutive concepts.

3.1 PATRIARCHY

The term “patriarchy” was used throughout the history of western societies before feminists reworked it; therefore Christine Delphy considers it important to differentiate between patriarchy as a term used in classical political theory and a feminist concept. For her the radical feminists of the 60’s were the ones who transformed this term into a feminist political concept, key to the feminist toolbox (Delphy, 1985:114). I take from Delphy the following remark: that the feminist concept of patriarchy has to be distinguished from that most frequently used in political theory, in which patriarchy is seen as a period in political history prior to the social contract. In its traditional and limited definition, the term patriarchy means literally “the government of the fathers” (Pateman, 1995:32). It describes a system in which social life is organized by the authority of the heads of the families—the fathers or the patriarchs—and their power derives from the “natural” subordination of the other members of the family; Carol Pateman (1995) refers to this as traditional patriarchal thought. In classical political theory, this period is superseded by the social contract, which

⁴³ “(…) the violent death of women for reasons of gender, whether this takes place within the family, the domestic unit or in any other interpersonal relationship, within the community, on the part of any person, or whether it be perpetrated or tolerated by the State and its agents by action or by omission”.

is an imaginary tool to explain and justify the creation of the state, the overthrowing of the paternal right and the establishment of social rights. According to this, social contract and patriarchy repel each other, therefore the social contract is called the anti-patriarchy or post-patriarchal period (Pateman, 1995:10).

Despite the widespread use of the concept “patriarchy”, there is no consensus within feminism of the understanding of it. It has its own history and is related to other concepts such as androcentrism, phallogentrism, sex-gender system, masculine domination, sexism, and misogyny. In 1963, Betty Friedan published *The Feminine Mystique*, in which she stated that although certain social rights were achieved by American women in the fifties and sixties, such as the right to education and to the vote, the lives of those women were unhappy: some kind of mystique surrounding the sphere of “American femininity” was preventing this problem from being examined. Patriarchy is the concept used by some feminists⁴⁴ to help illuminate what Friedan called “(...) the problem that has no name” (Friedan, 1963:15)—that is, a system that oppresses women and that is neither an individual nor a natural phenomenon but rather a political one (Delphy, 1985:115). To have found a name to reveal the source of this discontent helped with the development of strategies to work against it: this is why the acts of naming and conceptualizing are both a political stand and a necessity in order to tackle, discuss and find possible options to solve certain problems.

Acknowledging this, Pateman (1995) analyzes the classical statements made in political theory about the social contract. She holds that the patriarchal right did not die away but mutated from the power of the father to the right of man *per se*. Pateman argues that the social contract in fact has two sides: the public one that explains the social sphere of societal rights and liberties, and the private sphere in which the marriage contract takes place. The latter is usually left out of political discussions but is in fact the space where the modern sexual contract is negotiated, within a fraternity of men. The paternal or patriarchal right stems from an original contract, the conjugal contract, which in fact gives a man the status and authority of the father. This contract was not abandoned by the contractualists (such as John Locke and Rousseau); they maintained it into the “post-patriarchal” era and

⁴⁴ In 1970 Kate Millett published *Sexual Politics*. This book is the first theorization on patriarchy in feminist terms, on the power relation between sexes and male domination (Pinelo, 2008:84).

established the modern patriarchal right, not of a father over other members of the family, but of men over women. In the new modern patriarchal era, it is a fraternity of men who symbolically sign the social contract, and women are the object of negotiation in the new sexual contract (Pateman, 1995:10-12).

The concept of patriarchy is retained by some feminists because, as Pateman states, it has changed but has not ended. But some feminists, such as Gayle Rubin, restrict their understanding of patriarchy to its traditional definition. Rubin gives the name “sex-gender system” to:

the set of arrangements by which a society transforms biological sexuality into products of human activity, and in which these transformed sexual needs are satisfied (...) [This] indicates that oppression is not inevitable (...) but is the product of the specific social relations which organize it (Rubin, 1975:159,168).

In any case, Rubin is recognizing a social and cultural structure that organizes the sexes hierarchically. Celia Amorós suggests, and I agree with her, that in an egalitarian system, gender labels should not be produced; therefore, she argues that the concepts of “patriarchy” and “sex-gender system” do not exclude each other and that, in fact, both can be used as synonymous concepts (Varela, 2014:179).

A broad definition of patriarchy departs from its traditional understanding and is developed as the manifestation and institutionalization of male domination over women and children within the family, and the expansion of such domination over women into society in general (Lerner, 1990:340-341). Amorós would seem to agree with Pateman that the current political structure is not organized by kinship relations, but neither does she deny that the patriarchal system persists in various ways. Amorós (2006) suggests that the modern patriarchal imaginary is a system of representations structured by at least three axioms: first, that it is natural for a hierarchy to be established between men and women; second, that in order to maintain this hierarchy—a system of privilege—men have to relate to one another in a certain way; and third, that women are the transactional object or the symbolic mediators that men use to make pacts between each other. Amorós argues that it is this system which universalizes and essentializes women and men—that is, it assigns fixed characteristics to each and assumes they are general truths—and that any system of

domination is an effective creator of essences.⁴⁵

In general terms, it can be said that patriarchy is an ideological system of representation of gender, of the myths and images that construct femininity and masculinity and justify men's domination and women's subjection (Braidotti, 2011:92). But this concept carries many nuances, because even when this system is present in each society—in its political organization, economy, religion and culture—it varies from context to context. For example, non-western feminists in Latin America have developed their own theorization of patriarchy in order to analyze their own conditions and thus elaborate their own strategies. Julieta Paredes, an Aymara feminist,⁴⁶ elaborated the concept of “entronque patriarcal” to explain the specific subjection that indigenous women in Bolivia experience:

No sólo existe un patriarcado occidental en Abya Yala (América), sino también afirmamos la existencia milenaria del patriarcado ancestral originario, el cual ha sido gestado y construido justificándose en principios y valores cosmogónicos que se mezclan con fundamentalismos étnicos y esencialismos. Este patriarcado tiene su propia forma de expresión, manifestación y temporalidad diferenciada del patriarcado occidental. A su vez fue una condición previa que existía en el momento de la penetración del patriarcado occidental durante la colonización, con lo cual se refuncionalizaron, fundiéndose y renovándose, y esto es a lo que desde el feminismo comunitario en Guatemala nombrábamos como refuncionalización patriarcal, mientras que nuestras hermanas aymaras en Bolivia y en su caso específico lo oímos directamente de Julieta Paredes, que lo nombraban ya para entonces como entronque patriarcal (Gargallo, 2014:22).⁴⁷

“Entronque patriarcal” is a useful concept since it helps to shed light on the encounter between at least two kinds of patriarchy in certain contexts. Ancestral patriarchy and Western patriarchy characterize the experience of most indigenous women in America, but

⁴⁵ Here the terms “universal” and “essence” are understood differently from the way they were explained in chapter one. Here “universal” is used to refer to over-general claims that disregard diversity and difference, and “essence” refers to determined and fixed entities (Braidotti, 2011:85,122).

⁴⁶ The Aymara are indigenous people from the Andean region of Bolivia, Chile, Peru and Argentina.

⁴⁷ “There is not only a western patriarchy that exists in Abya Yala (America); we also assert the age-old existence of native ancestral patriarchy, which has been conceived and formed with the justification of cosmogonic principles and values mixed with ethnic fundamentalisms and essentialisms. This patriarchy has its own form of expression, manifestation and temporality distinct from western patriarchy. It was, in its turn, a prior condition that already existed at the time of western patriarchy's penetration during colonization, and the two patriarchies rebuilt themselves together, fusing and renewing themselves; this is what we, from the point of view of communitarian feminism in Guatemala, call “patriarchal refuncionalization”, while our Aymara sisters in Bolivia—in this case we heard it directly from Julieta Paredes—were already calling it the patriarchal juncture [entronque patriarcal]”.

this can also be said for any colonized country. Feminists in the context of colonialism have to analyze the features peculiar to the ancestral patriarchy as well as its particular configuration with a specific Western patriarchy, which in most Latin American countries was a Christian colonialist patriarchy (Gargallo, 2014:14).

In order to analyze and understand how femicides/feminicides emerge, as Monárrez says “(...) es imprescindible comprender teóricamente cómo funciona la política de la sexualidad en el sistema patriarcal. Ésta se localiza de manera contundente en las concepciones prevalecientes de masculinidad y feminidad” (Monárrez, 2009:41).⁴⁸ In other words, the key point is to grasp how the sex-gender or patriarchal system works in a specific context. It requires, then, that one be aware of the specific configurations of patriarchy in specific regions and, at the same time, identify its global flows that in some cases make femicide/feminicide traverse national boundaries.

The concept of femicide/feminicide inhabits all these complexities concerning the concept patriarchy. The concept femicide/feminicide speaks to an event (the murder of women) structured by a patriarchal or a sex-gender system: in a system in which women are the transactional object, it is logical for them to become disposable and killable, as in Carcedo and Sagot’s definition of femicide/feminicide as being committed “(...) por un sentido de posesión y control sobre las mujeres” (Carcedo, 2000:12). While the concept of patriarchy does not offer a solution to the problem of femicide/feminicide, it is a key term that invokes the plane in which this concept emerges. At the same time, the feminist concept of patriarchy illuminates the complexity in which this phenomenon is involved according to the specific context one is speaking to.

3.2 WOMAN/FEMALE/GENDER

I will analyze the concepts of woman, sex and gender under the framework of the so-called sex-gender debate. In some definitions sketched in the introduction of this section, the terms woman, sex, and gender appear as the subject of the concept femicide/feminicide;

⁴⁸ “(...) it is essential to theoretically understand how the politics of sexuality works in the patriarchal system. This politics is located unequivocally in the prevailing conceptions of masculinity and femininity”.

therefore I consider it important to discuss them. Importantly, the fact that there is no consensus about these terms has significant implications in the definition and understanding of the concept femicide/feminicide.

The varying interpretations of Simone de Beauvoir's famous statement "One is not born but rather becomes a woman" (Gatens, 2003:276) have generated a heated debate amongst feminist theorists that continues today without apparent resolution. It is said, in fact, that Beauvoir is the founder of the sex-gender distinction, even though she did not use the term "gender" (Gatens, 2003:267). In any case, some of the questions that this distinction gives rise to are: Is a "woman" only a product of human activity? If so, what is the role of the body in the construction of the subject "woman"? And, what implications are entailed by the affirmation that "woman" is just a social construction? Beauvoir's statement connects to other distinctions such as nature/culture and determinism/social construction; the main debates on the interpretation of her statement shift between these dualities and/or oppositions (Haraway, 1991:133). The concept of woman is embedded in of all these questions, and covers the debates about the identity and subjectivity of "woman".

Within this debate, Rubin plays an important role because, following the distinction opened up by Beauvoir, she introduces the term "gender". She differentiates the physiological and biological characteristics of "sex" from "gender", with the latter referring to the arbitrarily designated social determination and hierarchical organization of sexes. Rubin gives the name "the sex-gender system" to the way "(...) by which a society transforms biological sexuality into products of human activity" (Rubin, 1975:159). Here the concept of patriarchy helps to grasp what Rubin is trying to shed light on with the concept of gender. She highlights that, indeed, every culture or society has a sex-gender system which is culturally organized and therefore modifiable. In relation to femicide/feminicide, the use of this distinction is clear, for example in Diana Russell's changing definitions of this concept: in 1990 and 1992 (along with Caputi and Radford respectively) she uses the terms "women" and "men", and in her final definition of 2001 she changes to the terms "female" and "male". The former concepts refer to the sphere of gender, while the latter concepts emphasize "biological" conditions. In *Femicidio. De la categoría politico-jurídica a la justicia universal*, Atencio condemns the fact that the RAE did not define feminicide as the killing of a woman because of her gender, but rather

because of her sex. Atencio argues that “(...) en las sociedades patriarcales las mujeres son asesinadas por razones de género” (Atencio, 2015:22).⁴⁹ Under this understanding, other subjects who fit into the “feminine” gender but questionably fit into narrow “biological” determinations of female sex, such as transsexuals, would be included in the concept femicide/feminicide. The authors of the 2014 UN protocol also define femicide/feminicide in reference to the gender component of those killings. But, this distinction between sex/gender is not always accepted, as in the case of Judith Butler, whose critique of this dualism has an impact on the concept of femicide/feminicide.

Butler, inspired by her reading of Rubin, develops a new angle to discuss the sex-gender distinction. She questions the distinction in which sex is considered to be pure nature or biology, and gender the social construction based on sex difference. “What is ‘sex’ anyway?” she asks, “[i]s it natural, anatomical, chromosomal, or hormonal and how is a feminist critic to assess the scientific discourses which purport to establish such ‘facts’ for us?” (Butler, 1990:10). Butler assumes that even when a tangible body exists, one accesses it through language; thus it is mediated by the power discourse, and therefore it is also culturally constructed. Sex is not free of this situation; sex is to be understood depending on the field of power in which it is articulated (Butler, 1990:25). But if both sex and gender are socially constructed, what is the need to differentiate them? “[S]ex will be shown to be a performatively enacted signification (and hence not “to be”), one that, released from its naturalized interiority and surface, can occasion the parodic proliferation and subversive play of gendered meanings” (Butler, 1990:44). This notion of gender, though not completely disembodied, situates the body under the power of language and discourse. When Butler states that “being a woman is a cultural interpretation of being a female,” and that such an “interpretation is in no way necessitated by being female, then it appears that the female body is the arbitrary locus of the gender ‘woman’” (Butler, 1986:35), these statements can sound problematic in relation to the phenomenon to which the concept of femicide/feminicide speaks. It could be argued in disagreement, for instance, that the fact that female bodies of the gender “women” were killed in Ciudad Juárez points out that the arbitrary relation between the body and gender is *not* completely arbitrary: there is evidence of cruelty against these female-sexed bodies, and only bodies of this sex were

⁴⁹ “(...) in patriarchal societies, women are murdered for reasons of gender”.

systematically killed in that way and in that region. In this case, it seems clear that the sexed bodies of the victims and the construction around those female bodies played a significant role for the perpetrators of such crimes. But Butler's argument is not dispensable at all: it helps to make the concept of woman more complex, and in that sense the concept of femicide/feminicide too. How can "gender", in Butler's sense, ultimately help to determine which subjects fit under the concept of femicide/feminicide?

While she does not completely disagree with Butler, Anne Fausto-Sterling, on the other hand, does not abandon the distinction of the term "sex". She holds that sexes exist beyond the social construction around them and that one can give account of them, but she also recognizes that it is a fact that sex is being constructed under the paradigm of a binary gender model. Nonetheless she shows that there is a materiality of the body that offers the possibility of more than two sexes. Without appealing to surgical transformations, she recognizes at least five sexes, none of which are abnormal or extremely rare: "female", "male", "herms" (one testis and one ovary), "merms" (possess testes but no ovaries, and with some aspects of female genitalia) and "ferms" (possess ovaries, but no testes and with aspects of male genitalia) (Fausto-Sterling, 2000:1-2). Fausto-Sterling agrees with the affirmation that gender is a social construction and that one can see how it works by analyzing how sexes are constructed under a dualistic paradigm, but she also affirms that something beyond constructivism is there: the morphology of bodies offers another entry to discussion. In relation to femicide/feminicide, the five sexes of Sterling turn out to be interesting: for instance, for those who define the subject of femicide/feminicide in terms of sex (such as Russell, the RAE and *Le Petit Robert*), it would be interesting to know what happens with other sexes besides the female/male in relation to the concept at issue.

Along the lines of Fausto-Sterling and Rubin, and also echoing Butler's contributions, Joan Scott's definition of gender in her essay *Gender: A Useful Category of Historical Analysis* offers another approach to the "sex/gender" distinction which also has bearing on the concept of woman. Scott defines gender as "[a] a constitutive element of social relationships based on perceived differences between the sexes, and [b] a primary way of signifying relationships of power". The first part of the definition is made up of four constitutive elements: 1) "(...) culturally available symbols that evoke multiple (and often contradictory) representations"; 2) normative concepts which serve to control the possible

metaphorical meanings of those symbols; 3) a notion of politics and a reference to social institutions and organizations; and 4) a subjective identity (Scott, 1986:1067-1068). The second aspect of Scott's definition of gender points out the way in which normative gender legitimizes its symbolic representations. Scott develops this definition of gender as a useful analytical tool for historians, and stresses its historically contingent character. When feminists such as Monárrez define femicide/feminicide as the killing of women because of their gender, this highlights not just the social construction based in sexual differences but also the historical and located character of gender, if one reads this statement along the lines of Scott.

The lack of consensus on the definitions of "woman", "sex" or "gender" does not obscure the existence of the concept femicide/feminicide: indeed, this situation makes it more dynamic. This concept also shows the close relationship between subjectivity and identity; for example, Beauvoir and Butler are theorizing more in the field of subjectivity, nevertheless this constantly implies tackling the field of identity: the constitution of subjectivity within a patriarchal frame always refers to a sphere of identity imposed by that system. Depending on how these three concepts are conceptualized, femicide/feminicide may have a limited or a broad definition. A broad definition contains the complexity that the debate on sex-gender entails, and thus maintains the dynamism of the subjects "women", which is helpful, for instance, when discussing the issue of whether or not femicide/feminicide essentializes women. I will discuss this more in the last part of this chapter.

3.3 GENDER VIOLENCE/ VIOLENCE AGAINST WOMEN/ PATRIARCHAL VIOLENCE

On the 20th of December 1993 the general assembly of the United Nations established the Declaration on the Elimination of Violence against Women, in which:

“violence against women” means any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether

occurring in public or in private life (United Nations, 1993).

This definition shows that this kind of violence is composed of two other concepts: women and gender. Gender violence and violence against women are clearly used as synonyms here.

Gender violence, violence against women or patriarchal violence are synonymous terms that highlight certain forms of violence that women are susceptible to suffering just because they are “women”, and which occurs in a patriarchal structure. Some feminists prefer to call it violence against women or patriarchal violence instead of gender violence because of the institutionalization of the term gender. In Spain, for example, “gender violence” legally applies to females who are in heterosexual relationships; because of the limited understanding of gender and the lack of feminist input, other cases of gender violence are outside the reach of the Spanish law against gender violence. A broad and feminist perspective on gender indicates the social construction of gender and the violence one is susceptible to because of the assumption that one is a certain gender according to a particular sex/gender system, and it covers a vast field of situations, not just “intimate” cases. Here one faces again the way in which concepts are intertwined not just in their definitions but also in their configurations in relation to one another.

Any of the three concepts that one chooses to use will be composed of two others: the first is violence and the second either gender, women or patriarchy. Therefore, in considering their relation to violence, I will tackle them separately, if that can be done. I agree with Sayak Valencia that “violence” has not been discussed at length in philosophy even when it has become an interpretative paradigm of current reality (Valencia, 2010:25). The lack of discussion around this term, violence, makes some feminists appeal for a justified use of acts of violence by women. This fact suggests that violence needs to be seriously analyzed: is violence a human condition that constitutes our social structures? Is violence necessarily the use of force to achieve certain targets?

I will explore Johan Galtung’s theory on violence through its feminist reading by Catia Confortini, because this theory helps to highlight the dynamics of violence in a structural way and thus enables an understanding of the economy of violence in the case of femicide/feminicide. According to Confortini, Galtung developed his theory of violence in relation to theories of peace, since he considered violence to exist in inversely proportional

relation to peace. Emphasizing that conflict is not the opposite of peace, he affirms that conflicts will always exist and that ways to resolve them do not all have to be violent. He differentiates three kinds of violence, each with its respective complementary concept of peace: personal or direct violence, with a specific subject (its opposite is the absence of violence, or war); structural violence, without subject (its contrary is a positive or structural peace); and cultural violence (*versus* culture of peace). In his analysis of violence, gender is one variable among many, while from a feminist perspective, according to Confortini, gender should be essential to understanding the whole mechanism of violence (Confortini, 2006:336-341).

In Confortini's feminist critique of Galtung's theory of violence, she argues that conceptualizing violence as a *process*, instead of as a structure or system, "(...) allows us both to understand the complexities and contestations behind violence as a social practice and to envision possibilities of change", and a feminist perspective makes it possible to "(...) look at how violence and peace are not monolithic mutually exclusive categories, and how islands of violence can exist within seas of peace or vice versa" (Confortini, 2006:341, 346). At this point it is worth mentioning that theorists such as Lagarde and Monárrez have noted that femicide/feminicide occurs in times of both peace and war. This goes along with what Confortini notes about Galtung's exclusionary dualistic perspective of violence/peace. His perspective can be problematic, first, because states of peace and war coexist continually; using a naturalized and exclusionary dichotomy—violence/peace—only allows one to imagine a simplistic structure of domination in which one element, peace or violence, takes the upper hand. Second, the equation victim/aggressor that is derived from the structure proposed in the notion of violence obscures the agency of victims; an agent can be both victim and aggressor. Galtung's dualism in this case can lead to a paternalistic posture towards victims. Third, the three kinds of violence explored by Galtung do not have clear boundaries between them, and actually are continually interacting and reinforcing each other. Confortini also highlights the role of language not just in legitimizing violence but also in enabling creative alternatives against violence (Confortini, 2006:349-353). Finally, Confortini holds that "(...) gender relations are implicated in the very creation of violence. Violence is both made *possible* by the existence of power/gender relations, and power/gender relations *rely on* violence for their reproduction. Violence and gender are

involved in a relationship of mutual constitution” (Confortini, 2006:355). Gender for her is a social construction and as such is in strong relationship to violence.

Another feminist approach that offers an account of violence that also helps to understand the dynamics of violence in the case of femicide/feminicide is that of Laura Rita Segato, as sketched in *Las estructuras elementales de la violencia (Elemental structures of violence)*. In this text (Segato, 2013) the author states that violence emerges from two interconnected axes: a horizontal axis, established by relations of alliance and competition, and a vertical axis, which is defined by bonds of subordination and appropriation. It is not accidental that Segato titles her book with a paraphrase of Claude Lévi-Strauss’s *Les Structures élémentaires de la parenté (The Elementary Structures of Kinship)*, since the horizontal axis is related to the level that Lévi-Strauss identifies with the circulation of gifts or barter, which involves the sphere of language and trade too, while the vertical axis relates to Lévi-Strauss’s matrimonial or procreative sphere. Both axes act to help constitute one another and comprise a unique and unstable system, two kinds of economies articulated in one. The horizontal axis “(...) rige las relaciones entre categorías sociales o individuos que se clasifican como pares o semejantes” (Segato, 2003:253):⁵⁰ according to Strauss, alliance and competition happen only when one recognizes the other as equal; the economy of the gift only makes sense in this sphere. Segato calls this the sphere of the contract of equals, referring thus to Pateman’s theory—addressed earlier in the section on patriarchy—that those who signed the modern social contract were the fraternity of men (Pateman, 1995:8). On the other hand, the vertical axis “(...) ordena las categorías que, como el género, exhiben marcas de estatus diferenciados, señas clasificatorias que expresan un diferencial de valor en un mundo jerárquico. Estas marcas son construidas y percibidas como indelebles” (Segato, 2003:253).⁵¹ This is the sphere of hierarchical differentiation and grades of value; here relations are constrained by the payment of tributes. In the paradigm of gender, for example, this tribute is of a sexual nature—women are not in the horizontal level and in the vertical axis they are the transactional object, as explained by Pateman—but other examples encompass also class, race and nationality; the author calls this the “stratum

⁵⁰ “(...) governs the social relations between social categories or individuals who are classified as equals or as being alike”.

⁵¹ “(...) arranges the categories that, like gender, exhibit marks of differentiated status, classificatory signs that express a differential of worth in a hierarchical world. These marks are constructed and perceived as indelible”.

sphere”.

These two axes influence each other, as already said, but because of their mutual interaction this relation becomes unstable. The “sphere of the contract” requires that its members extract and present appropriate tributes in order to maintain their status of equals and thus not be removed to the stratum sphere: in the horizontal axis, each member never stops trying to pull others into a vertical relation with them (Segato, 2003:257). The problem is that this two-axis system does not reproduce itself mechanically, even when the ideology in which it is based makes its members believe that its reproduction is natural; this failure makes the system depend on the “(...) voluntad efectiva de dominación del hombre, que recurre ciclicamente a la violencia psicológica, sexual o física para restaurar su ‘segunda naturaleza’” (Segato, 2003:257).⁵² The supposedly natural condition of this ideology is belied by events that unveil the fact that it is constructed and maintained by violence.

Illustrating this structure of violence, Segato offers as an example her reading of the “femicidios sexuales sistémicos” in Ciudad Juárez. She argues that these violent acts have a communicative dimension, in which the interlocutors are not the victims but the co-authors, members of the fraternity of men, and in which “(...) el cuerpo generico de la mujer se reduce para adherirse definitivamente a la función de objeto destinado al consumo de la construcción de la masculinidad” (Segato, 2003:256).⁵³ These femicides/femicides directly communicate fraternal pacts between members of the fraternity, and on the other hand indirectly demonstrate the role assigned to women as disposable objects of tribute.

Many feminists say that femicide/femicide is not the only form of patriarchal violence, just the most extreme. But “[f]emicide is not only related to other forms of explicit violence against women but also to everyday acts of misogyny that contribute to the creation of a culture of sexism and devalorization of women and their lives” (Rodríguez, 2010:16). Femicide/femicide is the ultimate gender-based or patriarchal violence deriving from a continuum of violence of high or low intensity; in this light, other

⁵² “(...) the man's effective will to domination, which cyclically resorts to psychological, sexual or physical violence to restore its 'second nature’”.

⁵³ “(...) the gendered body of the woman is reduced to adhere definitively to the function of an object destined for consumption by the construction of masculinity”.

forms of violence such as “domestic abuse” can be seen not as the result of individual passions but as acts that uphold structures of patriarchal domination.

For Segato, social violence cannot be understood outside of the “(...) economía simbólica de corte patriarcal” (Segato, 2003:259).⁵⁴ This means that a patriarchal system cannot be separated from the economy of violence at a structural, symbolic and direct level (Pinelo, 2008:157). Under an understanding of social violence structured or embedded in gender-based or patriarchal violence, the concept of femicide/feminicide emerges not as an isolated phenomenon, but as the concept that exhibits the mechanism by which a system based on the hierarchization of genders preserves its order and normalizes violence against women.

3.4 COMPLEX CONCEPTS, *ERGO* COMPLEX CONFIGURATION OF FEMICIDE/FEMINICIDE

From here on I proceed from the idea that “(...) si la diferencia sexual no es el enfoque por excelencia para explicar la discriminación social, sí es un enfoque importante que nos explica las diferencias sociales entre hombres y mujeres” (Monárrez, 2009:44).⁵⁵ Sexual difference is a way of understanding the phenomenon of the killing of “women” that the concept of femicide/feminicide points out. Sexual difference theory, as understood by Rosi Braidotti—following her reading of Luce Irigaray—is the entry point in this section through which I propose to tackle patriarchy, the sex-gender debate and gender violence, and from there to tackle the concept of femicide/feminicide. I find that sexual difference theory offers many nuances with which to address identity and subjectivity, opening up the question of language/representation and the division of theory/practice; engaging with the *potentia* of materiality of the sexes shows the active role of matter in theory and thus questions the apparent separation of theory and practice. I do think that sexual difference theory and the concept of femicide/feminicide are activating a similar process, one that is useful in working against the specific crimes against women that are at issue in the concept of

⁵⁴ “(...) symbolic economy of patriarchal mold”.

⁵⁵ “(...) if sexual difference is not the focus *par excellence* to explain social discrimination, it is certainly an important focus that helps explain to us the social differences between men and women”.

femicide/feminicide, and which are based in the ideology of masculine authority (Monárrez, 2009:45).

Braidotti states, and I agree with her, that the subject of discourse is always sexed; it cannot be neutral, gender-free or universal (understood here in the sense of false universalism). Subjectivity is always bodily or materially grounded, which means an already sexed condition, and this is one of the statements that “new feminist materialism” uses as a point of departure;⁵⁶ but this would not cause a problem if this sexed condition did not organize the social sphere in a hierarchical way (Braidotti, 2011:94). The concept of patriarchy has helped, indeed, to make this problematic situation visible. There is a system or structure (which is not static and fixed once and for all in a false universalist way) which determines what a “woman”, “man”, “female” and “male” is, and thus establishes a gender system in which other possible sexes are placed within the paradigm of the two sexes; other subjects who fail to fit into the binary gender norm end up falling under the category of “Woman”, or, as I will explain later, the “feminine”. Through the lens of feminist sexual difference theory, especially my reading of Braidotti, I will offer an analysis of femicide/feminicide that sheds light on the role of the concept “woman” and suggests at the same time that the concept of femicide/feminicide is not necessarily essentializing the subjects “women”. Both sexual difference and femicide/feminicide have been judged as being essentialist, therefore I find it useful to dig into the parallels between them, and not fall into the trap of minimizing the usefulness of both for feminism.

Firstly, Braidotti argues that the negative connotation of essentialism (as being ahistorical, apolitical, deterministic and fixed) needs to be resisted if one is to take sexual difference seriously. She affirms “(...) that a certain essentialism may be a necessary strategy” (Braidotti, 2011:122) for three reasons: 1) if sexual difference is to have political options, feminist theorists “(...) should reconnect the feminine to the bodily sexed reality of the female, refusing the separation of the empirical from the symbolic or the material from the discursive or sex from gender” (Braidotti, 2011:122); 2) essentialism is an epistemological foundation for feminist theory and offers political legitimation of feminist politics; and 3) because when sexual difference is analyzed, its own arrangement of

⁵⁶ Arguments around embodied subjectivity had already emerged in the late 80’s and 90’s in feminist materialism, such as in the work of Luce Irigaray.

problems leads to the metaphysical query of essence (Braidotti, 2011:122). The first point is noteworthy here since it points out why I am interested in taking this perspective: it is not my aim to take a side on the sex-gender debate, nor to deny the agency of materiality or the active role of discourse, but precisely to contain the complexity of the sex/gender debate and the active role of matter and language. Therefore I find Braidotti's proposal to retain the concept of "woman" to be a suggestive one. Her proposal, in my reading, does not privilege one side of such a debate: she not only takes seriously the materiality of bodies but also that of language, and from that she derives the strategic necessity of the use of the concept "woman", a concept that, according to her redefinition of universality, does not completely homogenize and essentialize the subject "woman". Thus, her sexual difference project (nomadic project) helps to understand and take into account the active processes in which the concept of femicide/feminicide is involved.

Identity and subjectivity are not the same but are intimately and actively related, as Braidotti has stated (*cf.* Braidotti, 2011), therefore the entry point to this sexual difference theory is subjectivity. In *When Our Lips Speak Together*, Irigaray states that "(...) we are women from the start (...) we don't have to be turned into women by them, labeled by them, made holy and profaned by them" (Irigaray, 1985:212). Specifically, "them" refers here to mainstream thinkers on subjectivity that have left the "female feminine subject" or "the woman-defined-feminine" out of their representations (Braidotti, 2011:95); but more generally, "them" also applies to "all men", in which case Irigaray is claiming that the "female feminine subject" has been transformed into "Woman" according to a particular masculine perspective. Through the analysis of the ancient Greek philosophers ("them"), and at the same time using psychoanalytical tools, Irigaray dismantles a false dualism in which the subject "woman"—in the Western tradition at least—is enclosed, occupying the place of the "Other" but not inhabiting her own place. Irigaray's strategy of analyzing philosophical texts responds to her claim that one cannot separate the symbolic from the empirical: the discourses of the "feminine" cannot be separated from the historical real conditions and status of "women" (Braidotti, 2011:94). Irigaray suggests that the problem of the "Other" in the Western tradition is a farce, like a cat trying to bite its own tail, and she calls this false dualism the "Other of the Same" (Braidotti, 2011:96). This false dualism operates because "Man" constructs his Other according to his own values, thus this Other is

the representation of himself, for he has posited his own values in such an Other. Therefore one can speak of the equation “Other of the Same”: Man in this equation is the “Same” and he defines the “Other” as “Woman”.⁵⁷ Both Irigaray and Braidotti agree that the Other is not fully represented by herself in this equation.

This formula is based on an asymmetrical relationship of sexes expressed like this: Other-Same=Woman-Man. Woman is thus determined by the values of Man, and “woman-defined-feminine” has to develop her own representations in order to overcome her position as the “Other of the Same”. At the same time, “woman” has to find her own otherness in relation to other women, which is unrepresented: “the other of the Other” (Irigaray, 1993:97). The “feminine” is this Other, corresponding to a patriarchal symbolic level which usually represents distorted male values, designating and referring to a “female subject”, a subject who indeed is not represented in the idea of “feminine”: “[t]his ‘feminine’ bears no immediate or even direct relationship to real-life women. It is a typically masculine attitude that turns male disorders into feminine values” (Braidotti; 2011:92). When Thomas Aquinas says that the father is the active force of procreation and because of that he should be more loved than the mother, who is the passive principle, his idea enforces the image of the feminine as passive and in opposition to masculinity, which is an active force: this is an example of the distorted values being talked about here.

But “[w]oman ought to be able to find herself, among other things, through the images of herself already deposited in history and the conditions of production of the work of man, and not on the basis of his work, his genealogy” (Irigaray, 1993:10). That means that since women’s voices have been distorted by the words of men, the only solution to hear and find their own voice is to decode it *through* man’s production but not *according to* his production: one can reproduce the same values and representations of “Woman” according to the productions of the Other, or woman can construct and find her own representation *through* the productions of men. She cannot do it otherwise because one is

⁵⁷ The capitalization of “Woman” in this case highlights the representation of “woman” as the Other. Such a usage can be seen in the following words of Braidotti’s: “Feminine identification is not merely based on the concept of Woman; it is also determined by such modern cultural practices as cross-referencing. In this respect, the analysis of Woman in opposition to, but also in complicity with, real-life-women activates the distinction that separates institution or representation (Woman) from experience (women)” (Braidotti, 2011:104-105). This represents the traditional position of Woman as the Other of the Same, which is related to the notion of “feminine” as used in Monárrez’ etymological analysis and definition of femicide/feminicide (see chapter two), and which will be later addressed.

already embedded in the world and this world has been configured in a certain way, through the language that constructs the Other: language, as Butler notes, is the means by which one approaches the world, it is a social construction but at the same time it constructs (*cf.* Butler, 1990). Thus, Braidotti and Irigaray propose to find woman's own representation of herself through representations of the “feminine”, via the action of mimesis—that is to say the repetition of patterns, in order to stress the differences, in which each repetition is not the same—or what Braidotti calls “working through” (Braidotti, 2011:130).

One needs to work *through* or via mimesis because, as stated, by being embedded in the world, one is immersed in a language which has been configured by a patriarchal structure. This entails working *through* it, because one cannot be outside of it, one is actively part of it: “(...) la ideología patriarcal ha modelado nuestro propio inconsciente, hasta el punto que la representación que las mujeres nos hacemos acerca de nosotras mismas y de nuestro rol en la sociedad no es sino nuestra propia asunción de las consignas patriarcales” (Amorós, 1985:122).⁵⁸ Or as Elizabeth Grosz says, “[t]here can be no feminist position that is not in some way or other involved in patriarchal power relations (...)” (Grosz, 1995:8). Thus women’s own selves are not just already embedded in patriarchal language, but also constitute their own subjectivity according to patriarchal values. This, nevertheless, does not mean that nothing can be done to change this condition: language is also *productive* power (*potentia*). Braidotti adds, “(...) it is in language, not in anatomy, that my gendered subjectivity finds a voice, becomes a corpus and is engendered” (Braidotti, 2011:132).⁵⁹ The relation between identity and subjectivity does not cut off the agency of the subject.

The feminist project of Braidotti, who follows from her reading of Irigaray, is interested in the affirmation of difference as the site of political value and contestation, therefore her aim is to bring the “female subject” into representation since she is not fully represented in the idea of “feminine”. For Braidotti this is her nomadic project, the result of which would be the “virtual feminine”, in which virtual is not to be understood in

⁵⁸ “(...) patriarchal ideology has molded our own unconscious, to the point where the representation women make of ourselves and of our role in society is nothing more than our own adoption of the patriarchal terms”.

⁵⁹ Braidotti is here using “anatomy” to think against a certain essentialism: that which takes anatomical differences as devoid of any relation with language and that essentializes and hierarchizes them. She, nevertheless, is not supporting the dualistic idea of language versus body, but in fact highlighting the complex embodied nature of language.

opposition to real or existent, but rather as a process or a project: “(...) the effect of the project, a political and conceptual project of transcending the traditional subject position of Woman as Other of the Same” (Braidotti, 2011:96, 103) This “feminine”, I will suggest, is what is at stake when discussing the subject of femicide/feminicide, as Monárrez’s etymological analysis of the term puts forward in chapter two (see page 37).

Braidotti points out that sexual difference constitutes but does not determine subjectivity, therefore she takes it as a political strategy as far as it helps to tell different processes of differentiation apart. For methodological reasons she divides her nomadic project into three non-hierarchical, directional or dialectical phases, where time is not to be taken as linear but instead the different temporalities of the subjects defined Woman are to be considered. Her purpose responds to the “(...) need for action at the level of identity, of subjectivity, and of differences among women. These different requirements correspond to different moments, that is to say, different locations in space, that is to say, different practices” (Braidotti, 2011:164).

The first level is to extrapolate the differences between men and women in order to critique “false universality”—that is, the idea that there can be a neutral universal subject—as well as the idea of difference in its pejorative sense, in which the existence of difference is seen as eliminating the possibility of motivating collectively. In the case of femicide/feminicide, such a pejorative sense of difference would make the concept less politically potent. The concept gains in political potency, however, if it can be applied in recognizably diverse places and circumstances without false universalism, and if it works on female subjectivities that act from the affirmative belief of difference. The second level concerns the differences between Woman (as recognized according to the symbolic representation as the Other) and real-life-women: at this point, the task is to formulate female subjectivities without falling into relativism, and here the notion of identity is very important and has to be taken into consideration. The third level refers to the differences within each woman and attachment to the subject itself, as a non-unitarian entity. The effect of this process, for Braidotti, is as stated: the “virtual feminine” that enables new representations of the “female subject”. Ultimately, the task of the project of sexual difference theory is not to essentialize but rather to provide alternative representations for female subjectivities, taking into account the multiple processes of each woman as well as

the already embedded and embodied situation of subjects in certain discourses, especially the patriarchal one; thus, this project aims to empower women to move, to act and desire to be a “woman” different from that represented by the “feminine”. This desire for transformation is the political impact of sexual difference theory or the nomadic project.

Thus understood, sexual difference constitutes but should not determine subjectivity: “(...) the difference between the sexes is radical and constitutive of the human experience (...) Just like death, sexual difference is already there, whether we acknowledge it or not” (Braidotti, 2011:95). “Difference” thus emerges as a key concept here for Braidotti’s sexual difference theory: “I don’t want to conceptualize differences in a Hegelian framework of dialectical interdependence and mutual consumption of self and other” (Braidotti, 2011:14). In other words, she takes difference in a positive manner, and in a non-dialectical way, and her project is to illuminate difference in itself, difference as a constitutive condition of all individuals. “Difference” throughout Western philosophical thought has been crystalized in a negative sense as the origin of inferiority; “difference” is conceptualized as the state of being “different from” and thus potentially “less worthy than”, creating a dialectical relation between the self and the other (*cf.* Braidotti, 2002; Thiele, 2014). The affirmation of “difference” in sexual difference theory is significant in that it is based first in the material condition of sexed bodies, but involves the additional project “(...) to push difference in a feminist way further towards this ‘different difference’—towards a difference that no longer focuses on a ‘differing from’, but shows ‘difference differing’ or ‘difference in itself’” (Thiele, 2014:11).

This situation at the same time attempts to activate the notion of nature:

(...) by defining nature itself as differential, dynamic and sexed, and thus as providing a productive grounding for differential worlds, Irigaray’s unique twist of the history of philosophy transforms the common philosophical negative gesture vis-à-vis nature—a gesture that engages with nature only in order to have it overcome by culture—into an affirmative one (Thiele, 2014:17).

Although sexual difference theorists would say that “(...) nature itself is sexed, made up of (at least) two types of being” (Grosz, cited in Thiele, 2014:16), this “at least” is not limited to two types—as Fausto-Sterling has remarked—and saying that nature is sexed does not mean

that nature is not active, productive and *queer* (cf. Barad, 2012).⁶⁰

Having stated this notion of difference, I want to introduce the subject of femicide/feminicide to this discussion of sexual difference theory, to show the parallels and the usefulness of this theory to the analysis of the concept of femicide/feminicide. In this theory it is stated that there is an imaginary state in which patriarchy has organized the “real world” through a patriarchal language, according to Lacan.⁶¹ The “Same” has established the rules of the game; to ask *why* is probably not the main question here, but to question *how* should be of interest in order to find ways of breaking up patriarchal systems and thus activating change. Some theorists, such as Rubin, suggest that Freud’s theory of sexuality can be read as a theory of how normative gender is acquired. Femicide/feminicide is a concept that obtains its meaning in the system sketched by the system patriarchy, which constructs the equation “Other of the Same” that is effectuated in “real” bodies. Femicide/feminicide concerns “Woman” and the “feminine” as pictured by sexual difference. Even when this feminine is not disembodied, it can cover or be applied to non-female subjects too: therefore some non-female subjects can fall into the case of femicide/feminicide, such as in the case of transphobic femicide/feminicide.⁶² The subject “woman” of the concept femicide/feminicide is not fixed or disembodied, and it points out a subject that can be seen through the nomadic project of becoming a “virtual feminine”, that is, in the process of making other representations of the self aside from that of the

⁶⁰ In *Nature’s Queer Performativity*, Barad analyzes what she names “queer critters” such as lightning, neuronal receptor cells in stingrays, *pfisteria piscicida* and atoms to demonstrate the queer performativity of nature.

⁶¹ To offer an overview of Lacan’s perspective I follow Dr. Alejandra Moreno’s reading. There are four psychoanalytic states on construction of the subject according to Lacan. 1) There is a real state into which people are born, that of identification. Irigaray agrees with this. 2) There are empirical states in which man is conscious of his penis and women realize their “lack” of it; at this point Irigaray disagrees with Lacan, saying that here he is playing the game of the “Other of the Same”, applying his own values. What she proposes is the realization of a diversity of sexual organs, and she suggests considering the vaginal lips. 3) There is the Imaginary state: because of the penis, men develop as active and women develop as passive. Irigaray would say that since what happens in the previous level is not related to a lack, the subjectivity of women develops as active too. 4) There is the level of the symbolic, in which language is constructed and is patriarchal. Irigaray would make suggestions for an active and plural women’s language. But since women have been immersed in the “Other of the Same” system, they need to work to bring their selves to representation, to develop their own voices (Moreno, 2014).

⁶² I will not discuss specific cases of transphobic femicide/feminicide, but with the analysis of the concept—femicide/feminicide—and with the help of sexual difference theory I suggest that this phenomenon covers also, in some cases, non-female subjects under the “feminine”. These cases, nevertheless, are of interest when discussing the data on femicides/feminicides and when discussing the legal codification of the crime, for instance.

Other of the Same. The femicide/feminicide of Olga Carrillo, for instance—introduced at the beginning of this work—can be seen through the lens of this project as follows: she was identified as “Woman”, which is to say that her being sexed was not related in an arbitrary way to the fact that she was chosen as a target of murder. It would not be totally false to describe her death by saying “she was killed because she was a woman”. For her murderer, Olga is identified according to this false universal identity, even if he does not necessarily do this consciously, but rather as a product of the configuration of the other concepts addressed earlier (patriarchy, woman and gender violence). Olga could, however, have been in one of the stages of nomadic subjectivity in which she no longer identifies herself totally as a “Woman” or as the “feminine”; still, this situation might not have liberated her from being identified as “Woman” and thus murdered, whether because she was identified as fulfilling such a universal identity or because she was identified as seeking to break with it. Another example is that of Alí Cuevas, a Mexican feminist poet, who was killed by her ex-boyfriend Osvaldo Morgan by being stabbed 26 times. Osvaldo Morgan’s argument was that she did not want to return to a relationship with him. In this case, even when Alí was a feminist, and probably was in another stage of subjectification, as sketched in Braidotti’s nomadic project, this situation did not relieve her of being killed because of being identified as a “Woman” and as the “feminine”. In both cases, the agency that the “female subject” practices seems to be cut off by the very act of these crimes.

These two cases help me to illustrate how the concept of femicide/feminicide finds its definition in the power tension/relation between woman/man in the “Other of the Same” system: a gendered relation between the aggressor and the victim determines what kind of killing one is facing, and therefore *not all killings of women are femicides/feminicides*. For example, if a criminal explodes a bomb in a bank and women are murdered as the result of the act, one cannot say it was a femicide/feminicide. When a subject defined feminine is the target of and the factor that motivates the crime, then one is facing a femicide/feminicide; and a woman can also be a perpetrator of femicide/feminicide—even if, in her power relation with the victim, she might not occupy the same position that a male perpetrator does—by acting as an accomplice or by reinforcing the Other of the Same system. A case of reinforcing the construction of the place of the “feminine”, for example, might be one in which a woman kills another woman because that woman is the mistress of her partner.

The analysis of “Woman” and “femininity” offered by Braidotti, echoing Irigaray, also resonates in the words of Monárrez, when she states that “[f]eminicidio significaría entonces la muerte del ser femenino o con características de mujer, sea o no una mujer” (Monárrez, 2009:34-35).⁶³ Patriarchy recognizes just two genders, as noted by Fausto Sterling, and when new forms appear it tries to fit them into its schemas and from there to judge what kind of relations must be established: this is what Butler calls normative gender (Butler, 1990:xi). Feminists can endlessly disagree on or problematize the issue of what a woman is, and this will enrich the many possibilities that feminism can offer the current situations of those subjects placed in the position of “Woman”. But one also needs to keep an eye on the “real” situation in which the patriarchal system organizes sexed subjects according to the two-gender paradigm, legitimizing structures of violence against the “feminine”; the “Other”.

The concept of femicide/feminicide is connected to the problem of the killing of “women”, and thus is also connected to other problems through its constitutive concepts such as patriarchy, women and gender violence. But all these concepts demand situated analysis, therefore femicide/feminicide is universal to the extent that it is understood as a *situated* universality, or as Braidotti states; “(...) a qualitative leap, from individual experience to collective practice...” (Braidotti, 2011:115). This does not mean that patriarchy is the same all over the world, that women and females are all equal and have the same social conditions everywhere, or that gender violence is experienced in the same way in all societies. All these considerations are grasped intensively by the concept of femicide/feminicide as a universal concept. The elements that the concept of femicide/feminicide sheds light on should also be guidelines for analyzing the phenomenon of the killing of women as an *agencement machinique*, which emerges in a certain time and in certain “g-local” conditions, or in other words as “(...) locally enacted global phenomena” (Braidotti, 2011:9).

Femicide/feminicide is a phenomenon that, especially, halts the becoming of the “female feminine subjects”, their chance to be the subjects they want to be (*cf.* Braidotti: 2011). As “women-defined-feminine” we need our selves alive in order to have the

⁶³ “[f]eminicide would thus mean the death of feminine beings or of those who have the characteristics of women, whether or not they are women”.

opportunity to become others: “virtual feminine”. Here, to me, is where feminist sexual difference theory and the concept of femicide/feminicide weave a possible encounter: neither of them are essentialist—in the sense of assigning fixed and static essences—but rather both point at a system that constructs essences to legitimize violence and hierarchical gender relations, and thus determines subjects under certain fixed gender norms. In this sense, the concept of femicide/feminicide is not a cage that essentializes subjects in a binary system, but rather a useful tool to confront and name a system that essentializes certain subjects in order to maintain an order and the monopoly of restrictive power. The constitutive concepts of femicide/feminicide do not enjoy general consensus on their meaning or use, and are loaded concepts in which many emotions and interests are in play; therefore one cannot tackle the scope of the concept femicide/feminicide and try to understand its complexity without paying attention to all these discourses.

CHAPTER 4: FOR THE PRESENT AND THE FUTURE

In chapter one I stated that one of my methodologies is that of traversing dualisms—note that I do not use the term “overcoming” dualisms. The dualism at hand here is that of theory and praxis, a dualism that represents a non-exhaustive dichotomy. In fact, philosophy is in active and necessary relationship with the practical sphere, and this relation is neither unidirectional nor hierarchical. There is no simple equation in which theory determines practice or the other way around; neither is it the case that theory has more value than praxis or vice versa. My special interest in this thesis is to demonstrate a need for philosophy, and for feminist philosophy in particular, and how it is in fact a practical philosophy (see section 1.2). The concept femicide/feminicide is one example that characterizes this situation, and this analysis hopes to contribute to the theoretical production on femicide/feminicide while keeping a focus on the practical demands of the problem to which this concept speaks. In previous chapters I sketched the way in which the concept of femicide/feminicide is configured and the complexities it carries. I will now examine what happens with the concept when it is brought into the legal sphere. One important manifestation of the relationship between law and philosophy is the relation between law and concepts. I will take two cases of analysis: Oaxaca (representing the local level) and the International Crime Court or ICC (representing the international level), two of the geographical dimensions in which the concept of femicide/feminicide is put into play.

Concepts—and therefore philosophy—attest to the relationship between theory and political and social realities, and the field of law is one example of this situation. How does the relationship between theory and law work? In the cartography offered in the second chapter I gave special attention to the process of legalization of the concept femicide/feminicide because I am interested in tracing the flow from concept to legal category, which is one way in which philosophy and law are entangled. Concepts embrace many problems, as each concept is constituted by other concepts, and even when they are incorporeal they have a sort of materiality: concepts are effectuated in bodies and events, and they also can act to potentialize new forms of materiality. Therefore the concept of femicide/feminicide is not just constituted by many different problems, as addressed in

chapter three, but also is connected to the materiality of bodies: not just the material bodies of the victims, but also those of family members or people close to them who incarnate mourning over such crimes and the effects of their impunity. The concept of femicide/feminicide is active in the practical sphere, not just because it emerges in relation to a phenomenon that points out the gender politics involved in certain deaths, but also because this concept comes into play when it enters into the political sphere of legislation and jurisprudence—for instance, in the moment of defining legal categories or concepts, as in the definitions that I will address later in this chapter. In the case of law, the concept of femicide/feminicide arrives as a legal category or legal concept: the terms in which a bill on this subject will be formulated and passed make for an issue of political interest and deliberation, and it is in this process that one sees whether this concept will be received in its broad definition or if it will in fact be limited and drained of its richness, of the complexity of its components.

One of the main constitutive elements of law is language, which constitutes a relation organized in a complex *agencement*. Many factors come into play here, as Segato suggests:

el campo jurídico es, por encima de todo, un campo discursivo y, por eso mismo, la Lucha por el Derecho, tanto en el sentido de la formulación de leyes como en el sentido de la efectivización del estatus de existencia de las ya formuladas (...) es, por un lado, la lucha por la nominación, por la consagración jurídica de los nombres del sufrimiento humano, por entronizar jurídicamente los nombres que ya se encuentran en uso, y, por el otro, la lucha por publicitar y colocar en uso, en boca de las personas, las palabras de la ley (Segato, 2010:1).⁶⁴

Along these lines, if one accepts that language and power are consubstantial, then one can say that the law is not just a repressive dispositif (power as *potestas*) but also a productive mechanism (power as *potentia*) (Kirby, 2006:106). This is visible in the way that women have obtained certain rights in a structure that has sketched itself as universal, heterosexual and gender neutral. Law and jurisprudence are useful social spheres, and whenever

⁶⁴ “the juridical field is, above all, a discursive field, and for this reason the Struggle for the Law, both in the sense of formulating laws and in the sense of implementing the existing status of those that have already been formulated (...) is, on one hand, the struggle for nomination, for the legal consecration of the names of human suffering, the struggle to legally enthrone the names that are already in use; and on the other hand it is the struggle to publicize and place in use, in the mouths of people, the words of the law”.

societies exist, systems of regulation of crimes and justice will be developed. Law, according to a general perception, usually moves even more slowly than social and cultural changes, therefore it needs constant updating, and should avoid any claim to fixed, timeless and limited legal categories. Others might say that the law is static, but Foucault has shown that juridical practices are historical; law is not ahistorical, even when some might pretend it should be. Segato reinforces this idea when she states that:

[s]i la ley no puede dar cuenta de las complejidades y transformaciones del accionar humano ni es capaz de valerse de las contribuciones de la antropología y la sociología para formular derechos y garantizar protección, debería desistir de su intento normativo y reinventarse como sistema. Es por esa debilidad positivista que, hoy en día, investigadores dedicados a temas relativos a la seguridad pública nos hemos ido orientando a búsquedas en el campo del pluralismo jurídico y de los derechos propios practicados por comunidades indígenas, que sí demuestran la flexibilidad necesaria para considerar los actos humanos en sus matices y variabilidad contextual. Si el tecnicismo y el purismo categorial que impera en los medios jurídicos matan la posibilidad de captar el dinamismo de la historia y la consecuente mutabilidad de las prácticas que causan sufrimiento, la ley debe declararse incapaz de hablar de lo que les interesa a las personas, de lo que *nos* interesa. No se puede argumentar la imposibilidad de crear algo por el hecho de que todavía no haya sido creado, la justificación de lo no creable por lo no existente es un razonamiento circular y falaz (Segato, 2010:11).⁶⁵

Segato points out that there is a positivism in law that constrains and immobilizes its possibilities; but she, among others, as she suggests, does think that law can be dynamic and flexible, respond to social and cultural movements, and grasp the nuances of social-historical contextuality. In the same vein, language, power and law also have creative possibilities; one is not necessarily condemned to determinism and immobility by these three elements. Just because the law has served as an instrument of discipline and social

⁶⁵ “[i]f the law cannot account for the complexities and transformations of human activities, and if it is incapable of making use of the contributions of anthropology and sociology to formulate laws and guarantee protection, then it should cease its normative attempts and reinvent itself as a system. It is because of this positivist weakness that, today, researchers dedicated to issues of public security have steered us towards searches in the field of legal pluralism and the laws practiced by indigenous communities, which indeed demonstrate the flexibility necessary to consider human acts in their nuances and contextual variability. If the technical quality and the purist categorization that prevail in our legal resources kill the possibility of grasping the dynamism of history and the consequent mutability of the practices that cause suffering, then the law should declare itself incapable of speaking about what concerns people, about what concerns *us*. One can't argue the impossibility of creating something based on the fact that it hasn't yet been created; justifying uncreatability by inexistence is circular, fallacious reasoning”.

control to reinforce social interests—e.g. those of race, gender and class (Bergalli, 1992:45)—this does not mean that the achievements of the feminist movement in that sphere are worthless or to be seen as a simple alignment with the normative power of patriarchy, which, among other things, organizes the sexes hierarchically. Therefore feminist law and feminist jurisprudence should be useful areas in which to tackle law and jurisprudence from a critical perspective, potentially generating complex and dynamic systems of justice, such as the “legal pluralism” supported by Segato in her quote.

The use of the subject “women” in the codification of femicide/feminicide as a crime should not be understood as deterministic, as essentializing the different “subjects-defined-feminine” in their own process of “becoming”. Rather it should be understood in its full complexity, and used as a political strategy (as in the nomadic project of Braidotti), recognizing that there is a system that determines the social, symbolic and material conditions of subjects who in fact exceed such conditions. The repetitive use of this strategic category (as in Braidotti’s and Irigaray’s process of mimesis) can open up a whole possible range of differences that constitute “women”, therefore the use of this category should include the various contributions of black and post-/decolonialist feminism, and “(...) una combinación de metodologías legales múltiples es necesaria para hacer frente a la diversidad intrínseca del sujeto mujeres en derecho” (Igareda, 2014:9,12).⁶⁶ Concepts can open the flexibility of the legal sphere, even when they have not yet become a fact in law, as in the case of the use of the term “gender” in the Spanish law (see chapter two). Indeed, this is why one needs philosophy and not the sort of dialecticism that separates theory and practice, to give an account of the complexity of the world and of its intra-active productions.

⁶⁶ “(...) a combination of multiple legal methodologies is necessary to deal with the intrinsic diversity of the subject ‘women’ in law”.

4.1: THE CONCEPT OF FEMICIDE/FEMINICIDE AND LOCAL LEGISLATION: THE CASE OF OAXACA ⁶⁷



Fig. 4. Feminicide in Oaxaca state from 2010-2015

Mexico is a federal nation made up of 31 states and a federal district where the three branches of government are seated.⁶⁸ According to the census of 2010,⁶⁹ Mexico has a population of 112,336,538 people in a territory of 1,964,375 km². Oaxaca is a state located in southern Mexico, occupying 4.8% of the national territory (making it the fifth largest state of Mexico) with a population of 3,801,962 people, of whom 52.2% are women and 47.8 % are men. Oaxaca constitutes the most complex political division of the republic, since it is organized into 570 municipalities (this represents 25% of the total number of municipalities in the nation), of which 418 are governed by customary and traditional systems (INEGI, 2015). Oaxaca not only has the highest biodiversity of the country but also the highest number of ethnic groups; in it there coexist, aside from the mestizo population,

⁶⁷ I will use the term feminicide in this section because it is the term used in Mexico.

⁶⁸ On April 28th, 2015 the Senate of the republic approved the transformation of the federal district (Mexico City) into a state. But one day later this reform was frozen by the Chamber of Deputies and sent to the Comisión de Puntos Constitucionales (Committee of Constitutive Matters) to be carefully examined (Villamil, 2015; SPDNOTICIAS, 2015).

⁶⁹ INEGI, the National Institute of Statistics and Geography, carries out the national population and housing census every five years.

15 officially recognized indigenous groups and one Afro-Mexican group. Oaxaca is also the state with the highest number of speakers of indigenous languages: 34 of each 100 people speak an indigenous language (as compared to the statistic of 6 out of every 100 on a national level). Moreover, 14 of each 100 people who speak an indigenous language in Oaxaca do not speak Spanish. In Mexico there exist 11 Indo-American language families,⁷⁰ from which 68 languages and 364 dialects are derived; in Oaxaca 15 indigenous languages are spoken, along with their corresponding dialects. Oaxaca occupies the third place nationally in illiteracy: 16 of each 100 people 12 years and older cannot read or write (the national statistic is 7 of each 100). Oaxaca contributes 1.5% of the nation's gross domestic product (GDP)—in comparison, Mexico City contributes 17.7% (INEGI, 2010).

Within this scenario, in 2006 Oaxaca occupied second place in numbers of feminicides nationally, and remains today among the five states with the highest level of feminicides registered. Unfortunately there is very little reliable data that offers not only definite figures but also a complete spectrum of which deaths are being counted as feminicides. According to the “Observatorio Ciudadano Nacional del Femicidio” (OCNF, National Citizen Observatory of Femicide), in 2012-2013 alone, 164 murders of women were officially reported, and 94 of these, all of which occurred in 2013, are being investigated as feminicides (OCNF, 2014:129). The civil association “Consortio Para el Diálogo Parlamentario y la Equidad Oaxaca” (Consortium for Parliamentary Dialogue and Equality Oaxaca) has registered 398 feminicides between December 1, 2010 and July 30, 2015; however, they offer no access to their database, so it is impossible to know which cases of femicide are included in their tally.

In February 2007, Mexico introduced the “Ley de Acceso de las Mujeres a una Vida Libre de Violencia” (Law of Women's Access to a Life Free of Violence). This “positive law”—since it takes the affirmation of the right to life—requires every state to adopt their own version of this legislation, in conformity with the international agreements that Mexico has ratified. According to Laporta, this law is transversal in the sense that it includes actions to prevent, respond to, penalize, repair, and eradicate this violence (Atencio, 2015:165). For the first time in Latin America, Mexican legislation recognized the existence of “violencia feminicida” (femicidal violence); nevertheless this legislation did not come with the

⁷⁰ I am translating the term “familias lingüísticas indoamericanas”.

codification of femicide as a crime. Two years later, on March 23, 2009, Oaxaca approved the “Ley Estatal de Acceso de las Mujeres a una Vida Libre de Violencia de Género” (State Law of Women’s Access to a Life Free of Gender Violence), more or less in concordance with the federal law (Congreso del Estado, 2009).

In 2006, the feminist Marcela Lagarde, at that time Federal Deputy,⁷¹ promoted not just the federal “Ley de Acceso a una Vida Libre de Violencia” but also the federal codification of femicide; her proposal was to codify femicide as a crime against humanity, but this was not accepted at the time in such terms. After the sentence to the Mexican government over the “cotton field case” in 2009 (see chapter two), Mexico started to prepare the codification of femicide as a crime, but major resistance to this action came from the legal side. It was argued that the codification of femicide in penal law did not fulfill the principle of *ultima ratio*, which “(...) considera que la utilización del Derecho Penal está justificada cuando el comportamiento prohibido perjudique de una manera desmedida la convivencia libre y pacífica de las y los ciudadanos y cuando no sean adecuadas otras medidas jurídico-sociales menos radicales para impedirlo”;⁷² but later it was demonstrated that in fact femicide satisfies such principles (OCNF, 2014:22-28). In June 2012 a federal law reform was approved and femicide was codified in the federal penal code in article 325; the federal “Ley de Acceso de las Mujeres a una Vida Libre de Violencia” also modified its article 21, introducing a paragraph to refer to the penal code (Presidencia de la República).

However, the penal modalities of femicide vary from state to state because of the federal constitution of the country. Guerrero, for instance, was the first state—in December 2007, before the federal legislation—to codify femicide as a crime in its “Ley de Acceso de las Mujeres a una Vida Libre de Violencia”; Veracruz, Mexico City and Morelos did the same in 2011. On the other hand, Chihuahua, a state well-known for the “femicidios sexuales sistémicos” of Ciudad Juárez, has not yet codified femicide and does not offer information concerning those crimes (OCNF, 2014). Laporta states that: “(...) el hecho de que no se tipificara [el femicidio] a nivel federal lastró, sin duda, la efectividad de su

⁷¹ From 2003 to 2006 Lagarde served as Deputy of the Legislature of the Mexican Congress

⁷² “(...) considers that the use of Penal Law is justified when the prohibited behavior damages the free and peaceful coexistence of citizens in an inordinate way, and when other legal-social measures less radical are not adequate to prevent it”.

aplicación dada la heterogeneidad de los tipos estatales. Una mayor concreción habría facilitado la labor de los legisladores estatales” (Atencio, 2015:180).⁷³ The federal constitution of Mexico, the autonomy of the states, and the lack of detailed guidelines for codifying femicide in the states mean that the codification in Mexico currently varies, sometimes significantly. Some feminists and civil organizations have complained about the efficacy of the law because of this variation. In the case of Oaxaca, the reform to the penal code came into force in March 2013 (OCNF, 2014:126), and thus the law on femicide came to be a reality. I present below a comparative table of the state law and the federal law:

FEDERAL LAW	OAXACA LAW
Violence against women: “[c]ualquier acción u omisión, basada en su género, que les cause daño o sufrimiento psicológico, físico, patrimonial, económico, sexual o la muerte tanto en el ámbito privado como en el público” (Mexico, 2007:2). ⁷⁴	Same
Femicidal violence: “(...) la forma extrema de violencia de género contra las mujeres, producto de la violación de sus derechos humanos, en los ámbitos público y privado, conformada por el conjunto de conductas misóginas que pueden conllevar impunidad social y del Estado y puede culminar en homicidio y otras formas de muerte violenta de mujeres” (México, 2007:6). ⁷⁵	Same
Gender perspective: “(...) una visión científica, analítica y política sobre las mujeres y los hombres. Se propone eliminar las causas de la opresión de género como la desigualdad, la injusticia y la jerarquización de las personas basada en el género. Promueve la igualdad entre los géneros a través de la equidad, el adelanto y el bienestar de las mujeres; contribuye a construir una sociedad en donde las mujeres y los hombres tengan el mismo	Same

⁷³ “(...) the fact that femicide was not codified as a crime at a federal level no doubt hampered the effectiveness of its application, given the heterogeneity of the state penal categories. Greater precision would have facilitated the work of the state legislators”.

⁷⁴ “[a]ny action or omission, based on their gender, that causes them harm or physiological, physical, patrimonial, economic, sexual suffering or death, whether in the private or the public sphere”.

⁷⁵ “(...) the ultimate form of gender violence against women, as a result of the violations of their human rights, whether in the private or the public sphere, composed of the set of misogynist behaviors that can involve social and state impunity and that can end in homicide and other forms of violent death of women”.

<p>valor, la igualdad de derechos y oportunidades para acceder a los recursos económicos y a la representación política y social en los ámbitos de toma de decisiones” (Mexico, 2007:2).⁷⁶</p>	
<p>“Comete el delito de feminicidio quien prive de la vida a una mujer por razones de género. Se entiende por razones de género cuando ocurra cualquiera de las siguientes circunstancias:</p> <p>I. La víctima presente signos de violencia sexual de cualquier tipo;</p> <p>II. A la víctima se le hayan infligido lesiones o mutilaciones infamantes o degradantes, previas o posteriores a la privación de la vida o actos de necrofilia;</p> <p>III. Existan antecedentes o datos de cualquier tipo de violencia en el ámbito familiar, laboral o escolar, del sujeto activo en contra de la víctima;</p> <p>IV. Haya existido entre el activo y la víctima una relación sentimental, afectiva o de confianza;</p> <p>V. Existan datos que establezcan que hubo amenazas relacionadas con el hecho delictuoso, acoso o lesiones del sujeto activo en contra de la víctima;</p> <p>VI. La víctima haya sido incomunicada, cualquiera que sea el tiempo previo a la privación de la vida;</p> <p>VII. El cuerpo de la víctima sea expuesto o exhibido en un lugar público” (Mexico, 2012).⁷⁷</p>	<p>“Comete el delito de feminicidio quien prive de la vida a una mujer por razones de género. Se entiende por razones de género cuando ocurra cualquiera de las siguientes circunstancias:</p> <p>I. La víctima presente signos de violencia sexual de cualquier tipo;</p> <p>II. A la víctima se le hayan infligido heridas, escoriaciones, contusiones, fracturas, dislocaciones, quemaduras, mutilaciones con implicaciones sexuales o que le genere sufrimiento;</p> <p>III. Existan antecedentes o indicios anteriores de amenazas, acoso o maltrato del sujeto activo en contra de la víctima;</p> <p>IV. El cadáver o restos de la víctima hayan sido enterrados u ocultados;</p> <p>V. El cadáver o restos de la víctima hayan sido expuesto en lugar público;</p> <p>VI. La víctima haya sido incomunicada o privada de su libertad;</p> <p>VII. Por desprecio u odio a la víctima motivado por discriminación o misoginia. Se entiende por misoginia las conductas de odio contra la mujer que se manifiestan mediante actos violentos o crueles contra ella.” (Oaxaca, 2012:94-95).⁷⁸</p>

⁷⁶ “(...) a scientific, analytic and political perspective concerning women and men. It aims to eliminate the causes of gender oppression such as inequality, injustice, and the hierarchization of people based on gender. It promotes equality between genders through the equity, advancement and welfare of women; contributes to constructing a society in which women and men have the same value, equal rights and opportunities of access to economic resources and to political and social representation in the decision-making sphere”.

⁷⁷ “The crime of femicide has been committed by any person who deprives a woman of her life for reasons of her gender. It is understood to have occurred for reasons of gender when any of the following circumstances occur: I. The victim presents signs of sexual violence of any kind; II. Shameful or degrading injuries or mutilations, prior to or following the deprivation of her life, or acts of necrophilia have been inflicted upon the victim; III. There exist prior instances or data of any kind of violence in the family, work, or educational sphere from the active subject against the victim; IV. There has existed between the active subject and the victim a romantic or affective relationship or a relationship of confidence; V. There are data establishing that there were threats related to the criminal act, harassment, or injuries committed by the active subject against the victim; VI. The victim has been confined, no matter how much time prior to the loss of her life; VII. The corpse of the victim has been exposed or exhibited in a public place”.

⁷⁸ “The crime of femicide has been committed by any person who deprives a woman of her life for reasons of her gender. It is understood to have occurred for reasons of gender when any of the following circumstances occur: I. The victim presents signs of sexual violence of any kind; II. Wounds, abrasions, contusions, fractures, dislocations, burns, or mutilations with sexual implications or which cause suffering have been inflicted on the victim; III. There exist prior instances or indications of threats, harassment or abuse from the active subject against the victim; IV. The corpse or remains of the victim have been buried or hidden;

Aggressor: “[l]a persona que inflige cualquier tipo de violencia contra las mujeres (Mexico, 2007:2). ⁷⁹	Same
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I present this table of definitions here to help view the similarities and differences between the federal and state laws, and thus, within this legal frame, to analyze the concept of femicide. I also present it to demonstrate the different uses of language and their consequences. The main differences in this table are in the last point, in which the crime of femicide is defined.⁸⁰

As one can see, the federal and state laws use the term “violence against women” instead of “gender violence” or “patriarchal violence”; nevertheless, in both cases the definition of this violence highlights the factor of “gender”. Even though there is no explicit definition of gender, one can observe that it is not a limited definition, like the Spanish use of “gender”, which is restricted to women in heterosexual relationships. It is noteworthy that the definition of gender perspective includes both men and women as its subjects and is not solely focused on the subject “women”—the diverse constitutive elements of the subject “women” nevertheless are not apparent here. The term “violence against women” also includes multiple kinds of violence and incorporates deaths. Specifically, the inclusion of “violencia feminicida” as the ultimate violence against women is a very strong statement—Russell, for instance, has noted that some feminists hold that rape is the ultimate form of sexual violence (Radford, 1992:4). In both federal and state definitions, the social and state impunity involved in this ultimate form of violence against women echoes, for instance, the feminist definition of femicide offered by Lagarde, who suggested that the role of the state in these crimes must be included too.

In both laws the aggressor is not restricted to males, seeing as the definition of aggressor uses the word “person” instead of “males” or “men”, thus enabling the possibility that women may be inflictors of such violent acts or killings. Both definitions of femicide are broad definitions since they are, among other things, not limited to killings in the

V. The corpse or remains of the victim have been exposed in a public place; VI. The victim has been confined or deprived of her liberty; VII. Because of disdain or hate towards the victim motivated by discrimination or misogyny. Misogyny is understood to mean behaviors of hatred against women, which are manifested through violent or cruel acts against them”.

⁷⁹ “[t]he person who inflicts any kind of violence against women”.

⁸⁰ I am not tackling the effectiveness and the application of this codification, which would require another analysis that exceeds the aims of this work.

context of relationships. Nevertheless, in the second circumstance indicating gender-based motives, because of the way in which the law is written up, the state law differs from the federal by considering that the listed injuries have to be motivated by sexual intentions or intentions to cause suffering. Thus this focuses on the *motive* of the aggressor, while what is at issue in the federal law is the *result* of the violent acts (OCNF, 2014:127). Appealing only to the *motives* of the aggressor obstructs the determining and judging of cases of femicide because these can be very subjective: difficult to establish and subject to individual interpretations and interests. Nevertheless, it is not the case that a focus on the *results* is free of all difficulty; for instance, some signs in dead bodies may be difficult to read or simply cannot be accessed physically or visibly, as in the case of psychological violence or invisible suffering. Focusing on the *results* nevertheless gives more material with which to determine cases of femicide, because one cannot ignore some visible signs and the effects of certain acts effectuated in the dead bodies, and these signs can in fact provide information about the *motives* of the perpetrator.

In point IV, the state law adds a local variation, the fact that many bodies of femicide victims are hidden or buried. Also, the Oaxaca law includes in its point VII the term “misogyny”, which is understood in this case to mean “behaviors of hatred against women, which are manifested through violent or cruel acts against them”, a use which goes along the lines of Radford and Russell’s definition of femicide. This point advocates for the consideration of subjective elements that usually are difficult to prove or to make court judges accept (OCNF, 2014:127). Even if the federal law and Oaxacan law vary slightly according to what is understood by gender motives, in fact this inclusion of “gender motives” differs significantly in some other state laws—as Laporta regrets, because this situation makes it difficult to gain a “complete” panorama of femicides in Mexico. Some local legislations have limited definitions of “gender motives”, and this causes many other cases to be left out of the federal data of femicides; as a result, the analysis of the situation of these crimes will be insufficient at both the local and the national level.

The patriarchal or sex-gender framework does not appear explicitly in any of these definitions; but the fact that feminist concepts are playing a role is visible. For example, one can see concepts from the feminist toolbox such as “violence against women”, “femicidal violence”, “gender violence”, “misogyny”, and “gender perspective”; it would

be necessary to see if these concepts carry their whole critique and their complex configurations, and thus find out how feminist debates are introduced in an institution organized by a patriarchal system. Nevertheless, the fact that in both laws femicide/feminicide is framed under human rights status means taking a stand for the prohibition of violence and avoiding a protective or paternal character of law in which women are seen as passive subjects and violence as a given (Fregoso, 2010:75). The latter is the case in the “Guerra contro il Femminicidio” in Italy, which is accompanied by a protective and paternal law to prevent “feminicide” (see chapter two).

Thus one can see that the concept of feminicide “loses” its complexity when transforming into a legal category. It does not include the entirety of the debates that its component elements entail. This situation should not be seen as a tragedy as long as the definition at least remains broad. Nevertheless, the relation between concepts and law is visible when one analyzes the concepts and definitions used in this sphere, and one can also observe why the discussion on concepts is necessary, to continue pointing out the limitations or success of certain legislation, and activating its continuing transformation. The three feminist concepts that compose the concept of femicide/feminicide are not clearly stated in these legislations, but a certain understanding of them flows through the way these two laws were established.

I am analyzing one certain relationship between philosophy and praxis, and I am not saying that the answer to the problem of femicide/feminicide lies only in its codification as a crime or only in theoretical discussion. Many aspects of this phenomenon have to be considered in order to find possible solutions to it, because even when a law is broadly formulated it will depend on the workings of the justice system in order to be effective or not. In the case of Oaxaca, for instance, even though there exists a broad definition and an integral law against violence towards women, the rate of feminicides has lately increased significantly. This global phenomenon has to be tackled as an *agencement machinique*; a local approach is not enough because many of these crimes cross borders, as is the case with transnational femicide/feminicide (Maier, 2015).

4.2: THE CONCEPT OF FEMICIDE/FEMINICIDE AND TRANSNATIONAL LEGISLATION: THE CASE OF THE INTERNATIONAL CRIMINAL COURT

In this section I want to sketch a possible encounter of the concept femicide/feminicide with the international legal sphere. The conditions exist today to potentially codify femicide/feminicide in the International Criminal Court (ICC), a proposal that is being debated in the arena of feminist law. I support this emerging discussion because I recognize that the phenomenon of femicide/feminicide traverses national borders, and therefore it requires a transnational debate and action.

The ICC is an independent organism, but it exists in connection with the UN; it is the international legislative corporation that has the greatest number of member nations and the greatest influence. It is governed by the Rome Statute that was adopted on July 17th of 1998 as an action against the impunity of crimes against humanity. In that year 120 states adopted the statute, which entered into force on July 1st of 2002. As of April 2015, 123 countries have joined this treaty, but it is noteworthy to mention that countries such as the USA, Russia, China, Iraq and Israel have not adopted it, because they are countries that have been accused of crimes against humanity (ICC, 2015). The Rome Statute premises itself on the recognition of the intertwined relations between cultures and people, but also on the awareness of the weakness of such bonds. This statute affirms that “the most serious crimes of concern to the international community as a whole must not go unpunished and that their effective prosecution must be ensured by taking measures at the national level and by enhancing international cooperation” (UN, 1998:1), reiterating at the same time the purposes and principles of the Charter of the United Nations, which are: to maintain international peace and security, to develop friendly relationships among nations with the aim of universal peace, and to achieve international co-operation to resolve international problems (UN, 1945). Therefore, in order to put an end to the impunity of such crimes “(...) and for the sake of present and future generations”, the ICC, working with the UN system, has been established “(...) with jurisdiction over the most serious crimes of concern to the international community as a whole”, highlighting that this jurisdiction “shall be complementary to national criminal jurisdictions” (UN, 1998:1). This suggests that in fact in the case of femicide/feminicide the problem should be worked on at a global-local level

("g-local"); this statement activates the universal potential of the concept femicide/feminicide that, in Braidotti's terms, is situated in and according to the particularities of local experiences.

The ICC recognizes four categories of crimes under its jurisdiction: crimes of genocide, crimes against humanity, war crimes, and crimes of aggression. I am going to introduce three of them here for the purpose of my analysis. The ICC establishes that genocide:

means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such: (a) Killing members of the group; (b) Causing serious bodily or mental harm to members of the group; (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; (d) Imposing measures intended to prevent births within the group; (e) Forcibly transferring children of the group to another group (UN, 1998:3).

Crimes against humanity means:

any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack: (a) Murder; (b) Extermination; (c) Enslavement; (d) Deportation or forcible transfer of population; (e) Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law; (f) Torture; (g) Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity; (h) Persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender as defined in paragraph 3, or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the Court; (i) Enforced disappearance of persons; (j) The crime of apartheid; (k) Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health (UN, 1998:3-9).

In the above definition, gender is understood in a very specific way, as referring to two sexes, male and female, in the context of a society (UN, 1998:3-4).

War crimes are understood as:

(a) Grave breaches of the Geneva Conventions of 12 August 1949 (...) against persons or property protected under the provisions of the relevant Geneva Convention (...) (b) Other serious violations of the laws and customs applicable in

international armed conflict, within the established framework of international law (...) (c) In the case of an armed conflict not of an international character, serious violations of article 3 common to the four Geneva Conventions of 12 August 1949 (...) committed against persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention or any other cause (...) (e) Other serious violations of the laws and customs applicable in armed conflicts not of an international character, within the established framework of international law (UN, 1998:5-4).

Ana Messuti states, as already seen, that “[f]aced with the seriousness of a crime, the response should not confine itself to the borders of national regulations. The duty of justice, before the most serious crimes, is universality” (Atencio, 2015:46). This makes sense when considering Lagarde’s opinion that femicide/feminicide occurs in the context of a state which tolerates such crimes and generates impunity: in cases when justice does not arrive from the national state, and even more when the state is actively complicit in this injustice, the words of Massuti make complete sense. Lagarde defines feminicide as both a crime against humanity and a crime of genocide, since feminicides “(...) occur when historical conditions generate social practices that allow for violent attempts against the integrity, health, liberties, and lives of girls and women” (Fregoso, 2010:xvi). Both authors, among others, consider femicide/feminicide an international punishable crime; the problematic thing, as Messuti shows, is to bring the theoretical feminist discourse about it into jurisprudence, and as much as possible preserve its complexity. Hereafter I will present Messuti’s critique and proposal regarding the international codification of femicide/feminicide as a crime.

Messuti states that incorporating “women” along with the other groups mentioned under crimes of genocide is not appropriate for at least two reasons: first, because “(...) ‘grupo’ detona una pluralidad de elementos o sujetos, es indisociable de cierta cantidad” (Atencio, 2015:49),⁸¹ and she considers that the numeric factor is not the main determinant of the crimes; second, because totally or partially eliminating this gender, “women”, is not the motive of femicide/feminicide. The latter is something that Monárrez also suggests: “(...) el patriarcado necesita a las mujeres pues no sobrevive sin ellas; no tiene como fin matarlas, sino convencerlas o bien forzarlas a permanecer en las jerarquías, lugares y

⁸¹ “(...) ‘group’ indicates a plurality of elements or subjects, it is inseparable from a certain quantity”.

funciones que la reproducción de su poder require” (Monárrez, 2009:41).⁸² What genocide is defining is the *intention* of totally or partially destroying a group or community of people, as one can read in the definition, while in femicide/feminicide “(...) no es esencial la intención de destruir a un grupo de mujeres. Lo esencial es que es el género de la víctima lo que decide la voluntad del homicida” (Atencio, 2015:50).⁸³ This same argument applies for crimes against humanity according to the Rome Statute. Messuti advocates for the codification of femicide/feminicide as an independent crime because “[a]l no tener el respaldo de un derecho consuetudinario, de normas sociales arraigadas, de una cultura de los derechos de la mujer, es imprescindible utilizar un término fuerte, que recuerde a los homicidios, a los grandes crímenes” (Atencio, 2015:52).⁸⁴

Messuti does not propose the terms in which the independent criminal type of femicide/feminicide should be sketched. In order to do that she—together with the members of *Femicidio.net*—calls for an International Convention against femicide/feminicide to analyze and discuss the terms in which this penal type might be formulated. Genocide and crimes against humanity seem to be more ethically condemned today, but this has not occurred in the case of femicide/feminicide (Atencio, 2015:56); this blindness exists in close connection to the elements that constitute femicide/feminicide, especially the concept of patriarchy. The clear point here is that a system that normalizes gender violence minimizes the crimes derived from it. Thus I state that in order to have a broad definition of femicide/feminicide its constitutive elements have to be taken into account. The ICC is in relation with the UN, thus some discussions have already been introduced on the international level, as one can see in the reports by Ertürk and Manjoo, and the 2013 symposium in Vienna (see chapter two); this may establish a more critical context of discussion.

Finally, I will introduce another perspective on the international codification of femicide/feminicide, to illustrate the many possibilities and discussions that the many possible insertions of the concept (and its various understandings) entail on an international

⁸² “Patriarchy needs women as it cannot survive without them; its aim is not to kill them but to convince or force them to remain in the hierarchies, places and functions that the reproduction of its power demands”.

⁸³ “(...) the intention to destroy a group of women is not essential. The essential element is that it is the gender of the victim that decides the will of the killer”.

⁸⁴ “[s]ince one does not have the support of customary law, of rooted social norms, of a culture of women’s rights, it is indispensable to use a strong term that recalls homicides, that recalls great crimes”.

level. Laura Rita Segato advocates for a distinction between different kinds of killings of women; for this reason she suggests retaining the use of the term femicide/feminicide for national and state laws, with reference to crimes committed because of interpersonal relations (e.g. familiar, intimate, and per connection femicide/feminicide) or the individual personality of the aggressor (e.g. those committed by serial killers); and to use “femigenocidio” (femigenocide) in the international sphere to refer to crimes that are not personalizable (“no personalizables”). The latter would apply to crimes that “(...) por su cualidad de sistemáticos e impersonales, tienen por objetivo específico la destrucción de las mujeres (y los hombres feminizados) *solamente por ser mujeres y sin posibilidad de personalizar o individualizar ni el móvil de la autoría ni la relación entre perpetrador y víctima*” (Segato, 2010:25, original emphasis);⁸⁵ in her view this category will apply not just to crimes of genocide and crimes against humanity but also to war crimes.

As Messuti states, the terms in which femicide/feminicide can be codified internationally need discussion coming from different fronts—not just from lawyers, sociologists, and anthropologists, for instance, but also from the philosophical side—because even as concepts inevitably transform in their interplay with the law, as I have tried to argue, they do not necessarily have to lose their potential and complexity. One is likely facing the “becoming” (see chapter three) of the concept femicide/feminicide in an international sphere, a situation in which its future is at stake.

⁸⁵ “(...) because of its systematic and impersonal character, have as their specific aim the destruction of women (and feminized men) *solely because they are women, and without the possibility of personalizing or individualizing either the motive of authorship or the relation between perpetrator and victim*”.

CONCLUSIONS

Around 200,000 people took to the streets on June 3rd, 2015 in Argentina, in a large march to protest against “femicides” in that region and to demand state action against this ultimate form of violence against women. The protesters' motto was “Ni una menos” (“Not one less”).⁸⁶ It was reported to me that many conservatives also attended this march, with their own claim, “Ni una menos desde la concepción” (“Not one less starting from conception”), as the picture below illustrates.⁸⁷



Fig. 5. #NiUnaMenos, Universitarios por la vida

In it one can see a banner with the picture of a baby girl and the phrase: “Not one less dead before birth because of abortion. ‘No violence against women’ begins in the womb. Do not be fooled”, signed by “pro-life students”. In contrast to this claim, Russell and Radford argue that in fact the deaths of women due to illegal abortions, rather than the abortions

⁸⁶ The original slogan is “Ni una menos, ni una muerta más” (Not one less, not one more woman dead), and belongs to the Mexican poet and activist Susana Chávez Castillo—her body was found on December 6th of 2011—who was active in the movement seeking to shed light on the femicides of Ciudad Juárez (minutouno.com, 2015).

⁸⁷ I am thankful to Margherita Romagnoni for sending me this picture.

themselves, are a form of femicide/feminicide, because they are a result of misogynist social practices and policies in which women's rights to decide questions of their own bodies and maternity are controlled (Radford, 1992:7). The pro-life students' use of femicide/feminicide deforms the purpose of this feminist concept, which is intended to point out the violations of the human rights of "subjects defined as women". Therefore, when seeing a picture like this, I reaffirm the pertinence of theorizing the concept of femicide/feminicide, since the misuse of this concept, in ways which go against its feminist formulations, happens when the complexity of the concept is reduced and when its component elements are distorted.

In 2006 Russell stated that many feminists and activists do not recognize the sexual politics of femicide/feminicide, even those who are working on gender violence. In her words: "[g]iven the erasure of femicide by many feminists, we can hardly be too surprised that nonfeminists fail to recognize the political nature of most woman killing" (Russell & Harmes, 2001:7). In November 2013, in a feminist meeting in Madrid in which I took part, many urgent matters were voted on in view of the upcoming activities for the celebration of the 8th of March, but even when femicide/feminicide was put into consideration, it was not a priority for many feminist collectives. One year later, however, the same meeting of feminists took this subject as part of their campaign of March 8th; that fact makes me think that the feminist perception of the subject of femicide/feminicide may be changing, and hopefully it will be more debated. I consider it important today to keep discussing the concept and to maintain its theoretical feminist level in mind when codifying it or making political demands, as the Argentine march attempted. As feminists we have to make this concept our own, avoiding reductive interpretations of it; we must not give up its generative power in the realms of activism and law, as well as its potential in bridging dialogues across feminist generations and geographical locations.

The analysis of the concept of femicide/feminicide and its role in the legal sphere has shown the active role of theory plays in political and social reality. This concept does not just emerge from events in the practical domain but also influences that domain, for example in the codification in the penal code of this crime; the theorization of this concept affects the way in which it is brought into legal categorization, whether it is given a broad or a limited definition. As stated by Russell and Radford, femicide/feminicide occurs in all

societies structured by a patriarchal system, but it has different forms of manifestation (Radford, 1992:7). Therefore different types of femicide/feminicide can be established,⁸⁸ and these are necessary to help with the resolution of cases and identification of perpetrators as well as to help visualize an end to the impunity of such crimes (Segato, 2006:8). Some of the classifications are: intimate, non-intimate, child, transphobic,⁸⁹ lesbophobic, and racist femicide/feminicide; femicide/feminicide per connection, per prostitution, per human trafficking, and per genital mutilation; and systemic sexual femicide/feminicide. These classifications show that femicide/feminicide occurs not only in the “domestic” sphere but in various situations. Feminists who have worked on the subject of femicide/feminicide, such as Monárrez, Segato and Atencio, think that a database is necessary not just in order to know the numbers of dead women, or “subjects defined feminine”, of the patriarchy but also to have material with which to theorize about the specificity of femicides/feminicides in certain regions, and to identify similarities of this phenomenon between regions. In fact some databases on femicide/feminicide already exist, and in some of them the complexity of the concept is at stake: for instance, the official numbers of femicide/feminicide in Spain are lower because of the definition of gender violence used. In comparison, *Feminicidio.net*, has higher numbers registered in the database than the official numbers because they have a broad understanding of gender violence and of the other components of the concept femicide/feminicide.

When one reads the literature on femicide/feminicide, one finds that most of the texts have worked with intersectional and de-colonial perspectives; even when the work at hand does not explicitly tackle these perspectives, the concept implicitly needs to be considered from all these angles. Patriarchy, women, gender, and gender violence all demand an *agencement machinique* as methodology in order to tackle their complexity, and the same applies for femicide/feminicide. It has to be taken in the fluidity of its constitutive concepts and in the assemblage they imply, since other axes such as race, class and nationality play an important role in helping to understand the phenomenon of the killing of

⁸⁸ It is not the aim of this thesis to broadly discuss the classifications of femicide/feminicide, though it is necessary when discussing the database and the tracking of femicide/feminicide. This is a good research project to be developed.

⁸⁹ I do suggest that transphobic femicide/feminicide is a fruitful subject through which to discuss the “feminine”, because they bring to the fore a kind of crime committed against feminized subjects who are not necessarily identified with the female sex but who are effectuated in the dualistic and patriarchal organization of sexes and genders. A more detailed analysis of this should be part of further research.

women; factors of mobility are also important, since femicide/feminicide is an event that in many cases traverses national borders.

The concept of femicide/feminicide questions the limits and opposition between theory and praxis. As Fregoso and Bejarano say, this concept is not just a tool for activism against gender violence or violence against women, but also helps to promote feminist analyses of violence, especially of gender violence. This concept also queries the dualism of the public and private spheres, not eliminating it but rather enabling a complex analysis of it; the concept also traverses this distinction when appealing for a human rights perspective, since this encompasses both the private and the public sphere (Fregoso, 2012:52-60). These are some of the reasons that show how the concept of femicide/feminicide works for feminist political ends, since it encourages political activism, and urges feminists to rethink some of our theorizations and statements, to be critical and take seriously our condition rooted in materiality.⁹⁰

Femicide/feminicide, as analyzed here, is not a concept that essentializes the subject “woman” *per se*; but it takes its meaning in a patriarchal structure, and it is within the framework of this patriarchal determination that the notion of the “feminine” essentializes certain subjects as Woman. So, responding to the question of whether the concept of femicide/feminicide essentializes women, it does so only to the extent that it responds to a patriarchal determination. The concept of femicide/feminicide does not establish what a woman is or what she should be: it points out what a woman is and should be according to the definitions of a specific system. Within that framework, femicide/feminicide assumes the following meaning: the killings of women, or feminized subjects, as outlined by the Other, the patriarchal system. Thus this concept helps to identify the specificities and the consequences of patriarchy, and opens up the possibility of naming and taking actions. The process of women’s self-subjectivation is obviously broken when violence is done to the subject; or in other words, using Braidotti’s terms, femicide/feminicide is a concept that sheds light on the cutting off of the becoming of the woman one wants to be (Braidotti, 2011).

This theoretical approach to femicide/feminicide, hopefully, has shown indirectly

⁹⁰ Braidotti quotes Virginia Woolf to express the spirit of what sexual difference and feminist new materialism claim: “I am rooted, but I flow” (Braidotti, 2011:21).

that the materiality of this phenomenon is entangled with every concept it touches, because concepts are not separated from the practical-social world. Besides being obvious that the concept emerges from the materiality of death, it is also in relation to other nuances of materiality—such as those of race, class, violence effectuated in certain bodies, and the material features of the bodies at stake—which need to be considered in a more detailed analysis of the phenomenon. Finally, once again I stress the following point: it is important to discuss the concept of femicide/feminicide on a philosophical level when debating its legal categorization in order to understand the dynamic of at least its three constitutive elements. This is necessary in order to not lose the concept's political power, and to do justice to the materiality it is speaking to and through. And, since theory is always in relation with the practical world and this sphere is constantly changing, theory is never done, it is also always in a process of becoming; therefore, theorizations of femicide/feminicide are still not done. Maybe if one day there are no patriarchal or sex/gender systems, one will be able to speak of the end of femicide/feminicide and of its theorizations.

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APPENDIX

Fig.1

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Fig. 3

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