

Historical Evolution of Religious (In)Tolerance in the Brazilian Criminal System

Celeste Maria Vásquez Dan Lins¹, Marco Aurelio Gomes de Almeida,
Matheus Leão Alves da Silva², Marcio Souza da Silva

Law Faculty, Pontifical Catholic University of São Paulo, São Paulo, Brazil

Email: celestedanadvogada@gmail.com

How to cite this paper: Lins, C. M. V. D., de Almeida, M. A. G., da Silva, M. L. A., & da Silva, M. S. (2025). Historical Evolution of Religious (In)Tolerance in the Brazilian Criminal System. *Beijing Law Review*, 16, 2136-2146.

<https://doi.org/10.4236/blr.2025.164107>

Received: September 28, 2025

Accepted: October 25, 2025

Published: October 28, 2025

Copyright © 2025 by author(s) and Scientific Research Publishing Inc.

This work is licensed under the Creative Commons Attribution International License (CC BY 4.0).

<http://creativecommons.org/licenses/by/4.0/>



Open Access

Abstract

Certainly, today the penal system is secularized (or at least it should be), but this has not always been the case; the strong religious influences are still linked to our *modus vivendi*. The main objective of this article is to examine events from the past, exploring their current relevance and discussing the implications for (in)tolerance, with special attention to religious intolerance. The episodes experienced by our ancestors are living proof that tolerance transcends in a pluralistic society. Here, it's being treated as a brief historical evolution, beginning in the late Middle Ages, and its reflection on religious (in)tolerance, which, in extreme cases, causes mass deaths. It will primarily address how Brazilian legislation receives and regulates the issue.

Keywords

Intolerance, Criminal Law, Criminal Procedural Law, Racism, Religious Intolerance

1. Introduction

In this article, we seek to provide the reader with specific reflections. The subject will not be exhausted here, which is much more provocative than conclusive, of social relations in the face of taboos, such as (in)tolerance in Brazil.

In the first part of the article, we will seek to conceptualize a difficult definition of (in)tolerance as well as religious intolerance in the Brazilian Criminal System, and what is the act of “not seeing” and “not accepting” the other as they are.

In the second part, we will strive not to deviate from the main theme, presenting a historical evolution of (in)tolerance in relation to the criminal justice system in Brazil. In this vein, particular events from the early Middle Ages gain prominence. And how its bureaucratic structure with European influence in Brazil, despite the

change in the management of power from the church to the absolutist state in Europe, remained the same.

Still in relation to historical evolution, we will map out processes that did not respect human beings as subjects of rights in the early centuries of Brazil, and then an event that marks us to this day: the Holocaust.

In the third and final part, we will take an approach relevant to Brazilian society, focusing on Brazilian legislation. How does growing intolerance reflect on our 21st-century society, and how does Brazilian legislation view this phenomenon?

It is hoped that this article will be of great benefit to the international legal community, above all by providing insight into some specific aspects of Brazilian legislation regarding the fundamental right to freedom of belief, in the face of certain everyday paradoxes.

2. (In)Tolerance: In Search of a Concept

Tolerance. Perhaps one of the most difficult topics in our society in Brazil, because Tolerance refers to the acceptance of differences in opinions, and practices, while intolerance is the refusal to recognize and respect these distinctions. When we title this section with the term “in” tolerance, we mean that the Brazilian state declares itself secular in its constitution. However, there is considerable intolerance in practice, both in the courts and by Brazilian politicians in their public statements. Brazil is a secular state, as established in several articles of the 1988 Federal Constitution, the main ones being Article 5, Section VI (which guarantees freedom of conscience and belief and the free exercise of religious worship) and Article 19, Section I (which prohibits the government from establishing or subsidizing religious worship). These articles together guarantee the separation of State and religion, ensuring State neutrality and freedom of all beliefs. Although for some, our gregarious nature dispenses with it. This is a grave mistake. Conceptualizing tolerance seems to require herculean effort, especially to overcome and go beyond the idea of respecting the position (ideological, political, religious, scientific) of others. Otherness and its conformity are umbilically linked to the concept of tolerance.

Certainly, tolerance, like the criminal process in Brazil, is a useful thermographic instrument of a society (Silva & Braga, 2021). In both cases, they serve as the thermometer of a democratic society in which the respect emanating from our Brazilian Constitution was built on the foundation of human dignity.

Tolerance, however polysemic its definition may seem to us, we will try to conceptualize it (even if we incur reductionism and tautology) as: a set of attitudes of someone who recognizes the right of others to express themselves, both in opinions, by adopting a way of life different from their own, or diametrically opposed, and who can live in harmony despite their differences.

Tolerance cannot be completely unrelated to law, after all, it is biocultural, in other words, decisive for human life when we adhere to the social pact. It is also the role of law to regulate the most pernicious attacks on tolerance, precisely to safeguard the fundamental right to freedom. As Marco Antônio Marques da Silva

and Ricardo Hasson Sayeg rightly point out, tolerance plays the role of a sister-ally of freedom, and the more tolerant we are, the better our social environment will be and the more free and globalized the world will be (Silva & Sayeg, 2012). We see no reason not to give tolerance a constitutional seat¹.

3. Historical Evolution of (In)Tolerance with Repercussions on the Brazilian Criminal Justice System

Considering that the factor of intolerance is far-reaching, we will move on to a brief historical evolution, especially when confronted with religious ideologies that are at odds with the predominant ones.

To avoid an excessive historical overview, we will mention only one case from Greek mythology and then move on to the early Middle Ages to discuss the role of (in)tolerance and its impact on the criminal justice system.

Greek mythology tells us the story of Procrustes and his picturesque “bed.” Procrustes was a cruel man who flogged and killed his “guests” on a kind of “bed” until he was eventually deposed by the Athenian Theseus.

One of the evildoers was called Procrustes and had an iron bed, to which he used to tie all the travelers who fell into his hands. If they were smaller than the bed, he stretched their legs, and if they were larger, he cut off the excess. Theseus punished him by doing to him what he did to others (Bulfinch, 2006).

It is clear, then, that Procrustes was, in Greek mythology, the symbol of austerity and intolerance. Of the counterfeiting of the animalistic, of vanity for his sadism. He wanted everyone to be like him, while at the same time, surreptitiously, he did not accept anyone who was like him, always choosing the path of death. There are reports that he actually had two beds of different sizes, so as never to adapt to his slaughter².

Moving forward to the beginning of the late Middle Ages, marked by the confiscation of conflict and the seizure of knowledge (or even the “seizure of God (Zaffaroni, 2022)³”), reason was abandoned in favor of the power of the dominus.

¹In the Brazilian Constitution, for example, it is elevated to the status of a fundamental right, enshrined in Art. 5, IV, VI, and IX, in the Brazilian Constitution of 1988.

²Homicides perpetrated through torture, treachery, cruelty, or other insidious means are often classified in specialized literature as Procrustian homicides. In Brazil, they are subsumed under Article 121, § 2, items III and/or IV, of the Brazilian penal code.

³During this period, the accusatory system spread by the Roman Empire was abandoned in favor of the Inquisition. Ordeals, divine judgments, a kind of combat, where “the parties—or their representatives—fought and the winner was the bearer of the truth; their condition was proof of their reason,” were gradually replaced by the truth extracted from interrogations (inquisitio). In ordeals, God decided the winner; in the Inquisition, God ceased to be an arbiter and became the victim. “God no longer decides between two equal parties, but is hijacked by the lord, by the dominus.” Reason is therefore abandoned in favor of unconditional knowledge. Those who had knowledge were always the good, the dominus, while those who denied them the perpetuation of this power were evil. “The need or appetite for truth of the dominus (the knowing subject) legitimized violence against the object of knowledge, without the latter being guilty. The dominus is almost infinitely good or, if not, God, who is his prisoner, is; therefore, the dominus needs—in order to realize this goodness—to also be almost infinitely wise; consequently, nothing could oppose his voracious appetite for truth. The infinite goodness of the dominus manifested itself in his generous undertaking to liberate everyone from the cosmic evils that threatened them all and were expressed in Satan, through witchcraft or heresy”.

What had previously been resolved in Europe by methods of ordeal (unilateral and bilateral) in the High Middle Ages, with the collapse of the Roman Empire and the growing expansion of Germanic law, was replaced in the Late Middle Ages by an inquisitorial revolution.

The Fourth Lateran Council of 1215, in which Innocent III initiated the unofficial model of the Inquisition, and a few years later, Gregory IX's papal bull in 1233 ("licet ad capiendos") continued the intolerant tone, was certainly the greatest ingenuity of intolerance in the face of the penal system in millennial terms.

Shortly thereafter, the sad spread of the writings of Nicolau Eymerich (1376) and his austere "Manual of Inquisitors" (in the 16th century, still updated by Francisco Peña) soon spread throughout Christianized Europe. The result: the use of torture to obtain confessions from heretics (the materialization of Pope Innocent IV's bull "Ad extirpanda"), as this was unequivocal proof of sin, which needed to be purified, including through death by torture: "the art of prolonging life in suffering, subdividing it into 'a thousand deaths' and obtaining, before ceasing to exist, the most exquisite agonies" (Foucault, 2014).

In the excision of Roman canonical influence in Europe, the modern age, which began in the 15th century, reproduces the same intolerant bureaucracy of the Roman canonical Inquisition: the "subhumanization" of those who do not practice the beliefs of the ruling power, or who are dissidents. The figure of the enemy persisted in monarchical absolutism, appeasing draconian legislation that left no room for any beliefs other than those of the powerful. Intolerance, now, was not only towards other religions, but also towards thinking against the monarchical regime.

It was during this dark moment in history that the unfortunate story of Jean Calas came to light. In a very brief summary, we recall that Jean Calas, a 68-year-old Protestant who had been a merchant for forty years in the city of Toulouse in 18th-century France, was sentenced to death by the ignoble method of the wheel⁴. His story was a watershed moment in religious (in)tolerance in the "modern" age. Ominous was the voice that spread the most arduous slander against an innocent man. He was convicted of killing his son, Marcus Antonius Calas, by allegedly hanging him on a door.

After a grueling series of tortures, he died on March 9, 1762. He had no defense. He was the victim of error, passion, and fanaticism. He was unable to see the criminal review grant him innocence. His story shook Europe, even the most stubborn hearts. François-Marie Arouet (Voltaire), faced with the damage left by that unjust trial, decided to write a veritable treatise, the "Treatise on Tolerance" (Voltaire, 2017). We will not delve deeper into the case due to its thematic relevance, but it is worth bringing up some of the grand reflections expressed in the aforementioned work.

⁴One of the most ferocious instruments of torture. It was used to carry out capital punishment from ancient times until the beginning of modernity, mainly in public executions in which the condemned person was tied to the wheel and had their bones broken with maces and hammers until death. It was a form of post-mortem punishment to humiliate the condemned person.

Voltaire points out a global principle, “do not do what you would not want done to you.” He starts from the idea that mutual respect is a *conditio sine qua non* for human coexistence. To proclaim a right to be intolerant is barbaric and absurd; it is the “right of tigers” (Voltaire, 2017: pp. 41-42).

Finally, he puts forward a theorem, as the title of the book itself indicates, on tolerance between peoples: indifference should not be punished by the state unless it causes real social disruption, in addition to raising awareness of the right to profess a belief/religion, and that tolerance would never cause *bellum omnium*; the opposite extreme of intolerance.

In conclusion to this period, therefore, it is clear that crime and sin were always fused, and the damage left behind was irreversible. The way in which medieval legislation (e.g., Emperor Charles V’s Carolina of 1532 or King Louis XIV’s *Ordenanza* of 1670) considered crime to be “disturbance of the theocratic-Christian order” (Jakobs, 2021) supplanted the idea of maintaining a state of intolerance (“not professing the same religion as mine, therefore heretic, must recant or suffer the consequences”; “challenging the power of the king is synonymous with disobedience, will suffer harsh punishment”) throughout Europe, see the allocation at the top of criminal conduct, for example, perjury, sodomy, witchcraft/sorcery, adultery, etc. In other words, a “crime” against religion was a crime against the State.

With the advance of Enlightenment ideals, especially at the end of the 18th century, “criminal policy” was redesigned, now more libertarian, ratifying the idea of a social pact with the minimum transfer (which does not include the disposition to life), the uselessness of the death penalty, the error of using torture, and the method of separating the functions of accusing and judging, etc. Its leader was Beccaria’s already widely disseminated work, “On Crimes and Punishments.”

However, even though Europe was undergoing changes, having recently converted to the French Revolution (1789-1799), with its postulates focused on liberty, equality, and fraternity, this was not what was being preached in the former Island of Vera Cruz, much less under the legislation of Emperor Napoleon in 1808 and 1810.

Specifically in Brazil, the preferred place of exile for dissidents and repeat thieves who walked along the riverbank in Lisbon, which had laid the foundation for the raw material of the Dutch *Rasp-huis*⁵, Portuguese colonialism was still proclaimed⁶, and had the Ordinance of King Philip as its highest law, with the draconian and mythical Book V.

⁵Which had their main raw material from the Land of Vera Cruz: brazilwood. In fact, like the English workhouses, its extraction and shipment (made by Portugal to the Netherlands) are considered the precursors of modern prisons. On this subject, “it should be noted that the extraction of brazilwood, the first economic activity carried out in the colonization process, would result, already in the second half of the 16th century, in Portugal’s export of dye wood to the Netherlands, used in what is considered, alongside the English workhouses, one of the precursor institutions of the modern prison, the ‘Rasp-huis’ of Amsterdam.”

⁶Let it be said that it was complacent with the genocide of Christianity against all other religions, forcing it, especially vulnerable peoples, to continue with its diaspora.

Still rooted in a culture that forced servants and slaves to serve their masters, but attentive to the movement that had taken place in Europe, Brazil “abolished” slavery on May 13, 1888 (although it voluntarily chose not to include this issue in our Brazilian Constitutions, silencing the racial debate). However, even though it was forbidden to reduce a person to the condition of slavery, it was not in the nature of the plantation owners (still acting as slave owners) and the State itself to respect cultural and religious diversity. After all, our Brazilian Constitution of 1824 adopted one religion: Christianity.

The policy of intolerance led to true segregation of minority groups, especially blacks. The criminalization of their way of life was the solution adopted by the powerful to oppress a class that had never breathed the true air of freedom. The criminalization of capoeira (Afro-Brazilian sport that mixes martial arts, dance and music), folk healing, and begging, for example, were just some of the attacks to (re)oppress them.

Intolerance was so great that Nina Rodrigues, despite some pointing out that he had made great medical and scientific achievements, was akin to Lombroso’s atavistic man (rectius: “born criminal”), also propagating his ideas using guinea pigs, the vulnerable population, to claim that Africans and mixed-race peoples were also more prone to crime. Nevertheless, his etiological criminology, making the proposal to apply in Brazil that there were two criminal codes: one for white people and another for black people.

Even in the 20th century, Brazil still had a “Museum of Black Magic” (later renamed “Acervo Nosso Sagrado” [Our Sacred Collection]), a picturesque place that collected religious objects of African origin, ratifying structural racism.

Although Enlightenment ideals were slow to arrive in Brazil, in Europe, the cradle of the movement, one could, *prima facie*, conclude that it had advanced and completely eliminated intolerance, which was what was proposed at that time, but in reality, this distancing from intolerance did not occur.

The modern world thought that the Revolution, strengthening the natural rights of *jusnaturalism*, was sufficient to curb any disrespect for human beings. However, human greed, lust for power, and fanaticism are inexorable.

The scars left by the World Wars of the 20th century were the purest proof of the ineffectiveness of the laws of a State that can be easily manipulated to relax its positivism and select who is worthy and who is not, i.e., to outrage human beings⁷.

As if the Great War were not enough (and considering that the interwar period lasted just over 20 years), a new shadow came to plague the European continent. In the mid-1930s, driven by the plan known as *Endlösung der Judenfrage*⁸, Nazi anti-Semitism (fueled by the bitterness of defeat) would emerge, proclaiming the

⁷ “[...] international society realized the need to devise a new model of Public International Law, returning to the creation of mechanisms to protect human rights against the arbitrariness of States and agents acting on their behalf”.

⁸ This expression translates as “final solution to the Jewish question,” coined by the Nazis to mean the plan for the complete extermination of the Jewish people.

intolerable “banalization of evil”⁹ and the “romanticization” of legal racism (Zafaroni, 2019)¹⁰, denying the value of the human person as a central value of law, to demonstrate to the world that it was time for transformation, it was necessary for nations, formed by men, and here we allude to the fact that man, according to Immanuel Kant, is an end in himself (although much earlier, there were ideological postulates in this sense), to unite to create a “bible,” but a bible aimed precisely at curbing the abominable mockery of humanity in response to the atrocities and horrors experienced. Hence, the Universal Declaration of Human Rights was formed, which created the ONU, on December 10, 1948, functioning as a kind of reconciliation with human beings.

From this bad example for humanity, due attention was once again given to human beings (Prado, 2024)¹¹, precisely to place them at the center of all possible protections, they are the center of the entire structure of the state, containing any type of power that might threaten them. In this vein, the aforementioned Declaration is seen as the “contemporary conception of human rights, marked by the universality and indivisibility of these rights” (Piovesan, 2009).

It is worth remembering that the aforementioned Declaration was the first international document (taken, therefore, in global terms) to place man and his respect at the center of everything, by ensuring freedom and his fundamental rights (Silva, 2009).

4. Factors Influencing Religious Intolerance in the Brazilian Criminal Justice System

Religious intolerance in Brazil is a complex and multifaceted phenomenon that particularly affects religions considered to be minority religions, as we pointed out above. Although the Brazilian Federal Constitution of 1988 guarantees freedom of conscience and belief, religious practice still faces significant challenges, including prejudice, discrimination, and often violence.

The line becomes even more blurred when this intolerance is fed by the narcissism of small differences (as pointed out by Freud). It is precisely in this field of intolerance that feelings of loathing (hatred) arise. And from this, the abominable acts of ethnocide and genocide are unleashed.

⁹Hannah Arendt, on the “banality of evil,” pointed out this reasoning based on her view of Adolf Eichmann, seeing him as a being incapable of attributing ethical judgments to his degrading actions, bordering on an amoral being.

¹⁰Many wondered how it was possible for Germany, a philosophical, artistic, literary, and intellectual powerhouse, to cultivate such a “worldview.” The answer may be that “it filled the space that a considerable part of its intellectuality had opened with its romanticism—sometimes naive—and that some must certainly have regretted. Hitler was not a hypnotic magician, but rather an unscrupulous enlightened person who occupied a place largely sustained by the infinite principles of ironic and tyrannical Promethean intellectuals in the face of all that is finite”.

¹¹One such focus was precisely the speeches—sometimes forgotten—of Pico Della Mirandola, reevaluating his ideals in the delicate postwar period. Geraldo Prado, in his search for the intellectual roots of Pico Della Mirandola, finds in the 10th century, in the early days of Arab and Islamic philosophy, Abu Nasr al-Farabi (871-950), who reveals in his speeches on “virtuous cities” perhaps the foundation repeated in Mirandola, alluding to the West as an intellectual heir to the East (origin).

Religious intolerance is largely fueled by a lack of understanding and knowledge about the beliefs and practices of certain religious groups. We worship an intolerant and authoritarian cultural tradition. This leads to the spread of negative stereotypes and the demonization of religious traditions that are less known or understood. This was the case throughout the first centuries of the second millennium, when the Christian faith was established as the only correct faith. The figure of the heretic is identified as someone who does not share the same values as me.

In some cases, religious intolerance is motivated by fundamentalist views that consider only their own religion to be legitimate and true, while disqualifying other beliefs as heretical or demonic. This fundamentalism leads to rejection and hostility towards the practices and followers of other religions, as it has been since the transition from colonial Brazil to imperial Brazil and republican Brazil.

In certain contexts, religious intolerance is rooted in historical and cultural conflicts between different religious groups. These conflicts can be fueled by ancient rivalries, territorial disputes, ethnic differences, or issues of power and influence. Ultimately, the war of intolerance is also a war for control and domination.

In societies where different religious groups coexist, there is often competition for scarce resources such as land, government funding, or political influence. This tends to fuel tensions and conflicts between religious groups, with some factions seeking to marginalize or suppress others to ensure their own preeminence.

Religious intolerance is also fueled by deep-rooted prejudices and stereotypes about certain ethnic or cultural groups associated with certain religions. This is the result of a cultural tradition that cannot break free from the shackles of traditionalism. This factor leads to systematic discrimination against members of these groups in areas such as employment, education, and access to public services.

In some cases, religious intolerance can be exacerbated by sensationalist narratives in the media or exploited by populist politicians seeking electoral support. Perhaps the greatest exponent and leader of this neo-retributionism, especially in the US, was James Q. Wilson, in his famous work *Thinking about crime* (Wilson, 2013), whose first edition, in 1975, already criticized the entire discourse of critical criminology, he pointed to a truly conservative (and quite seductive, it must be said) way of thinking, which was the bedside doctrine of the heralds of repression, that is, American reactionaries who sold the political propaganda of “crime repression,” guided by law and order, which discredited any and all intellectual refinement contrary to the movement. All statistics (including ad terrorem) were manipulated to reach the desired conclusion: the need for tougher laws.

This fuels fear and mistrust of certain religious groups and contributes to a climate of hostility and division in society. And it is precisely in such moments of instability that homicidal intolerance rears its head.

For example, in 2022, Niterói councilwoman Benny Briolly (PSOL) was a victim of attacks and religious intolerance when she tried to approve a bill honoring the Umbanda entity Maria Mulambo, was harassed by evangelicals, and criticized by right-wing politicians in the plenary session. Councilman Douglas Gomes (PL)

used expressions like “you’re tied up” and “reprimanded” in the name of Jesus when mentioning the bill online. Gomes justified his position by saying he was elected to represent the Christian people. For sociologist Mônica Rodrigues, a professor at the Rio de Janeiro State Legislative School, hate speech goes hand in hand with fake news and stems from the moral agenda, which governs conservative ideology. It’s not just a characteristic of elections, according to Rodrigues, “that’s why it has such widespread and devastating effects and becomes an electoral weapon.”

Religious sentiment, coupled with religious intolerance toward Afro-Brazilian religious customs, has historically constituted one of the most evident manifestations of structural racism in Brazil. Since the colonial period, religious practices of African origin have been systematically marginalized and criminalized, not for strictly spiritual reasons, but because they were associated with enslaved peoples and Black culture. The persecution of these traditions, such as Candomblé and Umbanda, reveals that religious prejudice has always functioned as an instrument of social control and the maintenance of the racial hierarchy imposed by colonization.

During the 19th century and much of the 20th century, *terreiros* (as in Brazil the place where religions such as Candomblé and Umbanda are called) were invaded, sacred objects seized, and priests arrested on charges of “witchcraft” or “witchcraft,” practices classified as crimes in the 1890 Penal Code. This state repression, legitimized by the scientific and religious discourse of the time, reflected an attempt to “whiten” the Brazilian cultural imagination, subordinating Afro-Brazilian expressions to a Eurocentric logic of civilization and morality.

Even after the formal abolition of slavery in Brazil, prejudice against Afro-Brazilian religions persisted in institutional and symbolic forms, reproducing itself in state structures, the media, and social relations. The demonization of these beliefs, often associated with evil or criminality, consolidated a form of religious racism that, under the guise of spiritual intolerance, perpetuates the devaluation of Black identity and the denial of their cultural rights.

As stated elsewhere, we strongly believe that tolerance is an extension of religious freedom (Federal Constitution of Brazil of 1988, Art. 5, VI). However, as the constitutional clause itself states, it is a “relative” fundamental right, in that such freedom does not protect against abuse and excess, under penalty of legitimizing the notorious intolerance, according to Karl Popper’s paradox, in which excessive tolerance causes the death of tolerance via intolerance.

It is for this reason that, in Brazil, legal rights relating to religious feelings are protected (Brazilian Penal Code, 1942, Art. 208); the protection of honor, especially with regard to subjective honor (religious insult, Brazilian Penal Code, 1942, Art. 140, § 3), and depending on the case, even the criminalization of anti-Semitism (by Brazilian Law N°. 7716/89-Racism Law).

According to recent legislative changes in Brazil, insults relating to race, color, ethnicity, or national origin are also designated as forms of racism (Article 2-A of Brazilian Law N° 7716/89).

It is now well known that laws that criminalize conduct do not deter crime. However, they demonstrate society's intention not to tolerate the destruction of our own pluralistic and democratic society through intolerant discourse. History shows that, every time this has happened, the human toll has been incalculable. The achievement of a pluralistic, egalitarian, and democratic society has been arduous. One cannot, under the pretext of enjoying freedom of expression, mock others.

5. Conclusion

The history of intolerance has always accompanied human beings in their social interactions. Accepting others as they are is more difficult than one might imagine. The modern watershed of intolerance is the war on heretics in the Late Middle Ages. The entire bureaucracy of the model of human subjugation pays tribute to it. The inquisitorial model appeased by the synodal Church has direct repercussions on the entire penal system.

In Brazil, specifically, this form of intolerance took various forms: religious intolerance, the discrediting of knowledge, etc. The idea of tolerance as a fundamental right in Brazil must function wisely: one cannot, under the pretext of exercising the fundamental right to religious freedom, undermine the fundamental rights of others.

Brazil has mechanisms to try to curb such acts, especially by criminalizing religious intolerance when it violates the fundamental rights of others. The reason can be found in Karl Popper's paradox of tolerance, since excessive tolerance will cause intolerance.

Conflicts of Interest

The authors declare no conflicts of interest regarding the publication of this paper.

References

- Bulfinch, T. (2006). *Título Original: The Age of Fable* (Tradução: David Jardim, pp. 153-154). Editora Ediouro.
- Foucault, M. (2014). *Vigiar e Punir: Nascimento da prisão* (Tradução: Raquel Ramallete). In *Título Original: Surveiller et punir* (42nd ed., p. 37). Editora Vozes.
- Jakobs, G. (2021). Proteção de bens jurídicos: Sobre a legitimação do direito penal. In *Tradução, apresentação e notas de Pablo Rodrigo Allén* (2nd ed., p. 20). Editora CDS.
- Piovesan, F. (2009). Dignidade humana e a proteção dos direitos sociais nos planos global, regional e local. In J. Miranda, M. A. M. da SILVA, et al. (Eds.), *Tratado lusobrasileiro da dignidade humana* (2nd ed., pp. 402-403). Quartier Latin.
- Prado, G. (2024). *Curso de Processo Penal: Tomo I—Fundamentos e Sistemas* (pp. 92-93). Editora Marcial Pons.
- Silva, M. A. M. d., & Braga, M. S. N. (2021). Tolerância e Proselitismo No Mundo Atual. *Revista de Direito Brasileira*, 29, 431-451.
<https://doi.org/10.26668/indexlawjournals/2358-1352/2021.v29i11.7439>
- Silva, M. A. M. da (2009). Cidadania e democracia: Instrumentos para efetivação da digni-

- dade humana. In J. Miranda, M. A. M. da Silva, *et al.* (Eds.), *Tratado luso-brasileiro da dignidade humana* (2nd ed., pp. 224-225). Quartier Latin.
- Silva, M. A. M. da, & Sayeg, R. H. (2012). O direito e o dever humano recíproco a tolerância. In *Estudos de Homenagem ao Prof. Doutor Jorge Miranda* (p. 325). Coimbra.
- Voltaire [Arouet, François-Marie] (2017). *Tratado sobre a tolerância* (Tradução: Antônio Geraldo da Silva, pp. 41-42). Editora Lafonte.
- Wilson, J. Q. (2013). *Thinking about Crime. With a New Foreword by Charles Murray—Revised Edition*. Editora Basic Books.
- Zaffaroni, E. R. (2019). *Doutrina penal nazista: A dogmática penal alemã entre 1933 a 1945* (Tradução: Rodrigo Murad do Prado, pp. 32-33). Editora tirant lo blanch.
- Zaffaroni, E. R. (2022). *O inimigo no direito penal* (Tradução de Sérgio Lamarão, 3rd ed., 7ª reimp, pp. 38-39). Editora Revan.