

1922'S BRAZILIAN MODERNISM: AN ARTISTIC MOVEMENT THAT NEVER ENDED

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Abstract

This article explores the multidimensional legacy of the 1922 Brazilian Modern Art Week, emphasizing its enduring impact on the artistic, political, and legal frameworks of Brazil. By analyzing the movement's roots in European avant-garde aesthetics and its transformative appropriation into a uniquely Brazilian identity, the study revisits the contributions of figures such as Oswald de Andrade and Mário de Andrade. In the political context, it draws parallels between the turbulent 1922 and 2022 electoral years, highlighting ongoing struggles for freedom of expression and democratic values. From a legal perspective, the article examines how modernist ideals challenged the formalism of legal language and advocated for social inclusion, gender equality and accessibility – issues that remain central in contemporary Brazil. Rather than a closed historical episode, the Week of 1922 is revealed as a continuous process of questioning, rupture and renewal in the construction of Brazilian cultural identity and rights.

Keywords

Brazilian Modernism. Modern Art Week. Legal Language. Cultural Identity. Law and Literature. Avant-garde.

Summary

Introduction. 1. 1922's Brazilian art scene. 2. Political view of the Modern Art Week. 3. The relationship between the Brazilian Modernism and Law. Final considerations.

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INTRODUCTION

Just as difficult as the approach to Brazilian Modernism is the precise definition of what exactly should be understood by the movement.

The Modern Art Week of 1922 was so important for Brazil's cultural scenario that even today its pioneers and their actions are deeply studied, proving that an uprising of ideas can have effects that reverberate for centuries.

How can such a fragmented movement – self-proclaimed "Harlequin", in reference to the *Commedia dell'Arte* character –, simultaneously abstract and concrete, be dealt with in a compartmentalized way? How to relate it to the legal sciences, which deal primarily with human relations? How to cover something so complex in a single article?

This challenge will now be faced by means of a three-dimensional approach, purposely broad and fragmented. The aim of this article, far from drawing exhaustive conclusions, is rather to provoke new thoughts about the movement based on artistical, political and legal aspects of it, all mixed together: the true face of Brazil.

1. 1922's Brazilian art scene

In order to truly understand what the Modern Art Week of 1922 represented in the history of Brazilian art, it is first necessary to understand which artistic and cultural movements led to its coming to light. After all, even though 1922 is commonly considered to be the starting point for modernism in Brazil, the Modern Art Week was not the first known public manifestation of modern art in Brazil⁴.

⁴ According to Gênese Andrade, the first mention of Futurism in Brazil came from Almacchio Diniz, in the article 'Uma nova escola literária' (A new literary school), published in Salvador's *Jornal de Notícias* on December 30, 1909, accompanied by the Futurist

One of the most known events related to the subject, for example, preceded the Week: Anita Malfatti's Modern Painting Exhibition of 1917, harshly criticized by Brazilian famous writer Monteiro Lobato in an article entitled "*A Propósito da Exposição Malfatti*", better known as "*Paranóia ou Mistificação*", published in the newspaper *O Estado de São Paulo* in the same year⁵.

In any case, it is reasonable to assume that Brazilian art, from the beginning of the 20th century, gradually began to be influenced by the avant-garde movements, which by then were already well developed in Europe. According to Mendonça Telles, Brazilian literature only reached its expressive maturity as of the second decade of the 20th century, when Europe had already experienced various avant-garde movements, from 1908 onwards, such as Futurism, Expressionism, Cubism, Dadaism and Surrealism⁶.

Initially, the European avant-garde movement that influenced Brazilian artists the most was Futurism, a movement founded in Italy and conceived by Filippo Tommaso Marinetti. Said literary and philosophical trend preached the cult of the machine, modern inventions and speed, while advocating the annihilation of the past and traditional literature⁷.

Eventually a movement was founded in São Paulo – the region that received the most Italian immigrants in Brazil – called, at first,

Manifesto, which he translated, but which had no major repercussions at the time. ANDRADE, Gênese. **Oswald de Andrade em torno de 1922: descompassos entre teoria e expressão estética**. Remate de Males: Campinas-SP, v. 33, n. 1-2, p. 113–133, 2015. Available at:

<<https://periodicos.sbu.unicamp.br/ojs/index.php/remate/article/view/8636448>>.

Access on May 17, 2022, p. 113, 114.

⁵ *Ibidem*, p. 116, 117.

⁶ TELLES, Gilberto Mendonça. **Vanguarda europeia e modernismo brasileiro**. 21. ed. – Rio de Janeiro: José Olympio, 2022, p. 22.

⁷ *Ibidem*, p. 162.

“São Paulo Futurism”, headed by the *sui generis* figure of Oswald de Andrade⁸.

Later on, those same artists would reject Marinetti's Futurism, considering it merely a useful “battering ram against the Carrara marble glacier of dominant Parnassianism” – as defined by Menotti Del Picchia in “*O curupira e o carão*”, an essay declaimed by him at the Week of Modern Art⁹. Occasionally, those artists would adopt the term “Modernism” to designate their movement¹⁰.

With the gradual consolidation of the movement, led by Oswald de Andrade and Mário de Andrade, the São Paulo modernists of 1922 gathered together under a common cause: to break with previous artistic movements by absorbing elements from the European avant-garde movements, while also combining them with essentially Brazilian elements. This group of artists represented what would later come to be understood as the first phase of Brazilian modernism, the so-called “Generation of 22”¹¹.

To understand the aesthetic conceptions of this generation of artists in a simple and playful way, all one needs to do is read Oswald de Andrade's two best-known and most controversial manifestos: “*Poesia Pau-Brasil*” and “*Antropófago*”.

⁸ TELLES, Gilberto Mendonça. **Vanguarda europeia e modernismo brasileiro**. 21. ed. – Rio de Janeiro: José Olympio, 2022, p. 33.

⁹ Free translation. In the original, in Portuguese: “*A nossa estética é de reação. Como tal, é guerreira. O termo futurista, com que erradamente a etiquetaram, aceitamo-lo porque era um cartel de desafio. Na geleira de mármore de Carrara do parnasianismo dominante, a ponta agressiva dessa proa verbal estilbava como um ariete*”. PICCHIA, Paulo Menotti Del. **O curupira e o carão**. São Paulo: Hélios, 1927. In: TELLES, Gilberto Mendonça. **Vanguarda europeia e modernismo brasileiro**. 21. ed. – Rio de Janeiro: José Olympio, 2022, p. 450.

¹⁰ *Ibidem*, p. 36

¹¹ TELLES, Gilberto Mendonça. **Vanguarda europeia e modernismo brasileiro**. 21. ed. – Rio de Janeiro: José Olympio, 2022, p. 33.

In the first one, published in 1924, the author presents the concept of "export poetry", in contrast to European poetry which, in his view, had always been "imported" to Brazil throughout the history of national literature up to that point. In addition, Oswald de Andrade also addresses the importance of developing a national artistic conception with truly Brazilian characteristics, as opposed to merely reproducing European art¹².

In his 1928 "*Manifesto Antropófago*", Oswald de Andrade introduces the notion of "anthropophagy", referring to the practice of some indigenous tribes of Brazil to devour their enemies in order to absorb their strength. By analogically referring to these rituals, the artist defends the appropriation of foreign aspects in order to strengthen Brazil's national art, a thesis masterfully summed up in the motto: "Tupi or not tupi, that is the question" – alluding to Hamlet's notorious line in William Shakespeare's play and one of Brazil's most famous group of indigenous tribes, the Tupis.

Brazilian Modernism of 1922 was not restricted to the plastic arts and literature, but encompassed practically all means of artistic expression. In the field of music, e.g., represented mainly by the conductor Heitor Villa-Lobos and by Mário de Andrade – who, besides being a renowned writer, was also a great musicologist and pianist –, the Modernist movement also sought to revisit elements of national culture, updating

¹² Here follows some excerpts of said manifesto: "*O Carnaval no Rio é o acontecimento religioso da raça. Pau-Brasil. Wagner submerge ante os cordões de Botafogo. Bárbaro e nosso. A formação étnica rica. Riqueza vegetal. O minério. A cozinha. O vatapá, o ouro e a dança. (...) O Império foi assim. Eruditamos tudo. Esquecemos o gavião de penacho. A nunca exportação de poesia. A poesia anda oculta nos cipós maliciosos da sabedoria. Nas lianas da saudade universitária.*" ANDRADE, Oswald de. **O manifesto da poesia pau-brasil**. Correio da manhã, 1924. In: TELLES, Gilberto Mendonça. *Vanguarda europeia e modernismo brasileiro*. 21. ed. – Rio de Janeiro: José Olympio, 2022, p. 495, 496.

notorious themes from the popular music already produced on the Country¹³.

In short, despite the difficulties inherent to approach a theme that has gained such prominence and acquired a whole folklore around it, one can safely state that the 1922 Modern Art Week, considered the starting point of Brazilian Modernism, was a consequence of the European avant-gardes movements. Such avant-gardes movements were assimilated, appropriated and then disowned by those artists, who sought to both break with the traditions of the past while simultaneously achieving the conception of an art which could be considered essentially Brazilian.

Although the importance of the 1922 Modern Art Week for Brazilian art cannot be measured precisely, its influence on subsequent generations of artists is undoubted, contributing to the questioning of the role of “form” in art in a way that no other previous movement had done in the country¹⁴. That is why many authors recognize how deeply the event has impacted future generations, to the point where it is always revisited at regular intervals, decade by decade, with anniversaries always highly celebrated with new texts and critical analyses concerning the Modern Art Week¹⁵.

2. Political view of the Modern Art Week

When it comes to politics, there are significant similarities between 1922's Brazil and 2022's Brazil: 1922 was a year of direct elections

¹³ TONI, Flávia Camargo. Apresentação. In: ANDRADE, Mário de. **Ensaio sobre Música Brasileira**. Org. TONI, Flávia Camargo. – São Paulo: Editora da Universidade de São Paulo, 2020, p.13.

¹⁴ TELLES, Gilberto Mendonça. **Vanguarda europeia e modernismo brasileiro**. 21. ed. – Rio de Janeiro: José Olympio, 2022, p. 36.

¹⁵ GONÇALVES, Marcos Augusto. **1922: a semana que não terminou**. 1. ed. – São Paulo: Companhia das Letras, 2012, p. 339.

for President of the Republic, and so was 2022.

1922 was a presidential election year and at the time the Republican Constitution of 1891 was in force. The elections were held on March 1, 1922, as stipulated in paragraph 1 of article 47 of the 1891 Constitution, and Artur da Silva Bernardes, from Minas Gerais, was elected President of the Republic by the “*Partido Republicano Mineiro*” (PRM).

One should bear in mind that in post-1920 Brazil, there were several reformist ideas in the country, put forward by the industrial bourgeoisie seeking political space, by workers who were waiting for labor rules and by young army officers who were against the practices of the dominant rural oligarchies in São Paulo and Minas Gerais¹⁶.

The country was experiencing a period which was later called “*política do café com leite*” – in a free translation, something in the line of “coffee and milk politics”. This policy consisted of alternating the position of President of the Republic between the oligarchies of the two most powerful Brazilian states at the time, the state of São Paulo (the country’s biggest producer of coffee) and the state of Minas Gerais (the largest producer of milk).

The political environment of 1922 was polarized between the conservative “*café com leite*” politicians, who supported Artur Bernardes, and the “Republican Reaction” politicians – a political coalition of regional parties opposed to the “*café com leite*” policy –, who supported the governor of Rio de Janeiro and former president of the Republic, Nilo Peçanha¹⁷.

¹⁶ SCALQUETTE, Rodrigo Arnoni. **Lições Sistematizadas de História do Direito**. 2ª ed. São Paulo: Almedina, 2020, p. 138.

¹⁷ Vice-President of the Republic, he took over the presidency of Brazil with a mandate of 1 year and 5 months after the death of President Afonso Pena. During his term in office, the issue of protecting the Indians was of great importance, notably due to the work of Cândido Rondon, who created the Indian Protection Service (SPI), the predecessor of the National Indian Foundation (FUNAI). PEDROSA, Ronaldo Leite. **Direito em História**. 5ª ed. Rio de Janeiro: Lumen Juris, 2006, p. 313.

Historian Eduardo Bueno points out that with the military's support for the Republican Reaction candidates, in addition to the publication of false letters attributed to Artur Bernardes criticizing the military and former president Hermes da Fonseca, the situation took on such proportions that it almost led to a military coup, resulting in the country's most contested elections since 1910¹⁸.

Thus, 1922's Brazil lived a period of political turbulence between the rural oligarchy of Minas Gerais/São Paulo ("*café com leite*") and the opposition ("Republican Reaction"), which was gaining strength in the south of the country.

In addition, Artur Bernardes took over as President of the Republic in November 1922, under a state of siege that had been declared at the end of President Epitácio Pessoa's¹⁹ government to combat the crises that arose with the "Tenentist Revolts"²⁰ perpetrated by the "youth force" of the Brazilian military, which also added to the opposition to the political practices of the "*café com leite*" elite, with aim to prevent the inauguration of President-elect Artur Bernardes and depose current President Epitácio Pessoa.

Historian Mary Del Priore highlights the most notorious of those "Tenentist Revolts", the so-called "*Revolta dos Dezoito do Forte*" – or "the revolt of the eighteen of the fortress" –, when an armed insurrection against the government was launched in the city of Rio de Janeiro to prevent the takeover, without success. At the end of the insurrection, when failure was already certain, the insurgents who had taken over the Copacabana Fortress tore the national flag into 28 pieces, one per person, and marched slowly towards the Catete Palace, vowing to fight to the death. Some

¹⁸ BUENO, Eduardo. **Brasil: uma história: cinco séculos de um país em construção**. Rio de Janeiro: LeYa, 2012, p. 307-308.

¹⁹ PEDROSA, Ronaldo Leite. **Direito em História**. 5ª ed. Rio de Janeiro: Lumen Juris, 2006, p. 315.

²⁰ LEMBO, Cláudio. **A pessoa: seus direitos**. Barueri/SP: Manole, 2007, p. 110-111.

combatants fled and an engineer who was in the street joined them, so that the final group was made up of 18 people – 17 lieutenants and one civilian. In the end, only two lieutenants of the group survived the retaliation of the government troops²¹. Historians are unanimous in emphasizing the importance of the event for the future of Brazilian politics²².

It was precisely in this agitated political scenario that the 1922 Modern Art Week, or simply the "Week of 22", took place at the Municipal Theater in the city of São Paulo. Among other movements, it called for a change in Brazil's conservative artistic production and advocated a modernist movement, led, among others, by Mário de Andrade and Oswald de Andrade, who called for freedom of expression in artistic and cultural language by breaking with traditional ideas from abroad, as seen in the chapter above. Post

After the "Week of 22", Brazil would never be the same again. Some authors, such as Eduardo Bueno, goes as far as identifying the Week of 22 as the "fuse of transformation" from a rural Brazil to an urban and industrial Brazil²³.

The avant-garde has indeed been gaining ground, but the question is whether Modernism has come to fruition. Can one think of post-modernism, today?

In Law, one can point out the Social-Corporate Constitution of 1934, which innovated by creating social rights in Brazil, such as the 8-hour working day, paid annual leave and a minimum wage, among other social rights.

In short, in terms of the political scenario, a hundred years on, in 2022, Brazilians are living in the atmosphere of general elections and

²¹ DEL PRIORI, Mary. **Histórias da Gente Brasileira. Volume 3: República. Memórias (1889-1950)**. Rio de Janeiro: LeYa, 2017, p. 55-56.

²² BUENO, Eduardo. **Brasil: uma história: cinco séculos de um país em construção**. Rio de Janeiro: LeYa, 2012, p. 26

²³ *Ibidem*, p. 325.

elections for the position of President of the Republic. The Brazil of 22, in the 21st century, is reminiscent of the Brazil of 22, in the 20th century: a political environment divided into two strands. Fake letters in the politics of "*café com leite*" that are now presented as electoral fake news on social networks. Freedom of expression sought in the artistic and cultural environment of 1922, and today freedom of expression as a current issue in the national political clash in the digital age.

In times of technological advances, globalization and the metaverse, ensuring the right to speech and freedom is still a concern: in the words of the Brazilian Supreme Federal Court (STF)'s Minister Carmen Lúcia, "(...) *cala boca já morreu* (...)!"²⁴ – something in the line of “*shut up is dead*”, in a free translation. One can only hope so.

3. The relationship between the Brazilian Modernism and Law

Besides the legendary episode involving the students of the *Largo de São Francisco* Law School booing and disrupting the exhibitions on the second day of the Week²⁵, many modernists – such as Oswald de Andrade, Menotti Del Picchia and Guilherme de Almeida – studied at this very same institution and were fierce critics, even at that time, of the practice of excessively erudite, wordy and inaccessible language in Law.

In this sense, the following excerpt from the *Manifesto Antropofágico* humorously exposes Oswald's repulsion for this type of discourse, expressed by the pun on the word "*galimatias*" – which in Portuguese translates to “verbose speech”²⁶: “*I asked a man what the Law was.*

²⁴ Available at: <https://redir.stf.jus.br/paginadorpub/paginador.jsp?docTP=TP&docID=10162709>. Access on May 20, 2022.

²⁵ GONÇALVES, Marcos Augusto. **1922: a semana que não terminou**. 1. ed. – São Paulo: Companhia das Letras, 2012, p. 297.

²⁶ “Galimatias. (do fr. *galimatias*). *S. m. 2 n.* Discurso arrevesado, confuso, obscuro; babel de palavras cujo significado mal se pode entender”. *In*: FERREIRA, Aurélio Buarque de

He replied that it was the guarantee of the exercise of possibility. That man's name is Galli Mathias. I ate him."²⁷.

On the contrary, what they called for was natural, spontaneous, contemporary language, without archaisms and exaggerated displays of erudition. As Menotti Del Picchia elaborates on the subject: "*Nothing fake, mellow, artificial: we want to write with blood – which is humanity; with electricity – which is movement, the dynamic expression of the century; violence – which is bandeirante energy*"²⁸.

In fact, the above passage illustrates the rejection of what is known as "legalese" – or "*juridiquês*", in Portuguese. After all, everything begins with language²⁹. What would the legal sciences be without words? Written and spoken. Narrative and argumentative speeches that convey claims and call for the application of the just and the good. Law without words does not exist, is not validated and is ineffective.

The violence to which Menotti Del Picchia refers was the result of an energy that until then had been dammed up and thus contained. It exploded in 1922, exactly 100 years after Brazil's independence from Portugal, in 1822. Generations followed until the stigma of the colonialist

Holanda. **Novo dicionário da língua portuguesa**. 1 ed. – Rio de Janeiro: Nova Fronteira, 1975, p. 671.

²⁷ Free translation. In the original, in Portuguese: "*Perguntei a um homem o que era o Direito. Ele me respondeu que era a garantia do exercício da possibilidade. Esse homem chama-se Galli Mathias. Comi-o*". ANDRADE, Oswald de. **O manifesto antropófago**. Revista de Antropofagia, Ano I, No. I, 1928. In: TELLES, Gilberto Mendonça. **Vanguarda europeia e modernismo brasileiro**. 21. ed. – Rio de Janeiro: José Olympio, 2022, p. 528.

²⁸ Free translation. In the original, in Portuguese: "*Nada de posição, meloso, artificial, arrevesado, precioso: queremos escrever com sangue – que é humanidade; com eletricidade – que é movimento, expressão dinâmica do século; violência – que é energia bandeirante*". PICCHIA, Paulo Menotti Del. **O curupira e o carão**. São Paulo: Hélios, 1927. In: TELLES, Gilberto Mendonça. **Vanguarda europeia e modernismo brasileiro**. 21. ed. – Rio de Janeiro: José Olympio, 2022, p. 454.

²⁹ The importance of language can be seen in the biblical passage from over two thousand years ago: "*And the Word became flesh and dwelt among us*" (John 1:14).

period gave way to the construction of a genuinely Brazilian identity that is still being sought today.

And why is this process of knowledge so difficult? Precisely because it comes from the mixture of the many different people and cultures who cohabit in the country. People who already used to live here – genuine inhabitants of the land – with people who arrived here to explore and be explored – initially, and for many years, as slaves.

This miscellany of interests and perspectives, all inebriated with the almost universal sense of "Brazil; a new and rich land, full of opportunities", meant that everyone sought to live according to their own and – often – antagonistic and diametrically opposed perspectives, a social behavior that to this day Brazilians are trying to reverse.

Law, from this perspective, ends up merely replicating and enhancing differences, rather than consolidating intersections, because as seen above, Brazil is experiencing a political antagonism in 2022 of a superlative order. No longer identified only by the predominantly political-economic interests of the "*café com leite*" oligarchists versus the Republican Reaction, but by something deeper, intrinsic and difficult to understand, in a right-wing and left-wing appearance, no longer symbolized by reds and blues, but by reds and "greens and yellows" – Brazil's national colors –, reinforcing the idea of opponents against a country.

This idea certainly does not help to build a prosperous nation, but rather perpetuates everything that has been sought to be broken for over 100 years.

In the arts, the same search for the new is evident. For a truly Brazilian freedom of expression. The difficulty in accepting new artistic manifestations, criticized for their uncultured language and for verses that were considered empty and offensive to the Portuguese language, can be seen as a *déjà vu* of what was experienced in 1922.

After all, what could be understood as "truly Brazilian"? Is there any fact that can be classified as such if the country has only been on the map for about 500 years?

Maybe – and this word "maybe" would not be recommended for scientific papers, but yes, *maybe* – the construction of a truly Brazilian identity involves recognizing that it exists only through the acceptance that the country is a product and not the primary source. A product without a recipe or exact measurements and which, therefore, as is typical of the human race, is constantly changing and transforming.

The Law, in this vein, is keeping pace with change. But at a slow pace.

In 1916, for example, the first Brazilian Civil Code was approved, replacing the old Ordinances of the Kingdom of Portugal: *Afonsinas*, *Manuelinas* and *Filipinas*.

It came into force after a year, in 1917 – precisely when Anita Malfatti's Modern Painting Exhibition took place, as mentioned above, hence during the start of the Modernist movement in Brazil.

Although its main idealizer Clóvis Beviláqua – later known as “the knight over two worlds”, that of traditional Brazil and that of modern Brazil³⁰ – was praised for his work on codification, the 1916 Civil Code perpetuated historically in positive law, for example, the discredited position in which women found themselves in the legal and social sphere.

Authors like Cláudio de Cicco highlight that the 1916 Civil Code tried to synthesize Brazilian legal and social reality, giving it a Romanesque guise, building historically conditioned situations into Roman law concepts. Thus, the importance of institutes such as property and family, for a bourgeois society that was still very patriarchal, were elevated to the noblest possible status, based on the definitions contained in Roman law³¹. The same author concludes that the historical-legislative perpetuation of inequalities did not please Beviláqua himself, who went on to reiterate

³⁰ DE CICCIO, Cláudio. **História do Pensamento Jurídico e da filosofia do direito**. 4^a. ed. São Paulo: Saraiva, 2009, p. 278.

³¹ *Ibidem*, p.281-282.

that the 1916 Civil Code was not an individualist work, over which he would have had total control³².

In order to illustrate the treatment given to married women, which can be understood as the classic thinking of the Brazilian patriarchal family at the time, here follows Article 233 of the original text of the 1916 Civil Code:

Art. 233. The husband is the head of the marital partnership.
He is responsible for:
I. The legal representation of the family.
II. The administration of the common property and the private property of the wife, which the husband is responsible for administering by virtue of the adapted matrimonial property regime or the prenuptial agreement (arts. 178, § 9, no. I, c, 274, 289, no. I, and 311).
III. The right to fix and change the family home (arts. 36 and 233, no. IV).
IV. The right to authorize the wife's profession and residence outside the marital home (arts. 231, no. II, 242, no. VII, 243 to 245, no. II, and 247, no. III).
V. Providing for the upkeep of the family, subject to the provisions of art. 277.³³

³² *Ibidem*, p. 282.

³³ Free translation. In the original, in Portuguese: “*Art. 233. O marido é o chefe da sociedade conjugal. Compete-lhe:*
I. A representação legal da família.”

In 1962, however, several articles of the 1916 Civil Code had their wording changed by Law No. 4,121, so that the situation of married women could be improved. The same article can be quoted to illustrate the change:

Art. 233. The husband is the head of the marital partnership, a function he exercises with the collaboration of his wife, in the common interests of the couple and their children (arts. 240, 247 and 251). (Edited by Law 4.121 of 1962)

He is responsible for: (Edited by Law no. 4.121, of 1962)

I - the legal representation of the family; (Edited by Law No. 4,121 of 1962)

II - the administration of the common property and the private property of the woman that the husband is responsible for administering, by virtue of the matrimonial regime adopted, or of the antenuptial pact (arts. 178, § 9, no. I, c, 274, 289, no. I and 311); (Redaction given by Law no. 4.121, of 1962)

III - the right to establish the family's domicile, with the exception of the woman's right to appeal

II. *A administração dos bens comuns e dos particulares da mulher, que ao marido competir administrar em virtude do regime matrimonial adaptado, ou do pacto antenuptial* (arts. 178, § 9º, nº I, c, 274, 289, nº I, e 311).

III. *direito de fixar e mudar o domicílio da família* (arts. 36 e 233, nº IV).

IV. *O direito de autorizar a profissão da mulher e a sua residência fora do tecto conjugal* (arts. 231, nº II, 242, nº VII, 243 a 245, nº II, e 247, nº III).

V. *Prover à manutenção da família, guardada a disposição do art. 277."*

to the judge in the event of a decision that harms her; (Edited by Law No. 4,121 of 1962)

IV - to provide for the upkeep of the family, subject to the provisions of arts. 275 and 277. (Edited by Law no. 4.121, of 1962).³⁴

Anita Malfatti lived to see this change, although she died a few months later. While she and other women struggled to make a living from their art and to be recognized in their professions, the law granted them the right to collaborate with their husbands and to appeal to a judge if they were dissatisfied with the decisions made about where to live. At the time, these changes were considered major advances.

As Flávio Martins Alves Nunes Júnior highlights, historically, women have always been treated less favorably than men in Brazil. They only acquired the right to vote in 1932, through the current Electoral Code. Also, under the Civil Code of 1916, they played an inferior role in a notoriously patriarchal family: in fact, the doctrine of the time even affirmed the substantial difference between male adultery (legally forgivable) and female adultery (legally more serious)³⁵.

³⁴ Free translation. In the original, in Portuguese: “Art. 233. O marido é o chefe da sociedade conjugal, função que exerce com a colaboração da mulher, no interesse comum do casal e dos filhos (arts. 240, 247 e 251). (Redação dada pela Lei nº 4.121, de 1962)

Compete-lhe: (Redação dada pela Lei nº 4.121, de 1962)

I - A representação legal da família; (Redação dada pela Lei nº 4.121, de 1962)

II - a administração dos bens comuns e dos particulares da mulher que ao marido incumbir administrar, em virtude do regime matrimonial adotado, ou de pacto, antenupcial (arts. 178, § 9º, nº I, c, 274, 289, nº I e 311); (Redação dada pela Lei nº 4.121, de 1962)

III - o direito de fixar o domicílio da família ressalvada a possibilidade de recorrer a mulher ao Juiz, no caso de deliberação que a prejudique; (Redação dada pela Lei nº 4.121, de 1962)

IV - prover a manutenção da família, guardadas as disposições dos arts. 275 e 277. (Redação dada pela Lei nº 4.121, de 1962)”

³⁵ MARTINS, Flávio. **Curso de Direito Constitucional**. São Paulo: Revista dos Tribunais, 2017, p. 837.

Only more than 80 years after the 1922 Modern Art Week, the 1988 Federal Constitution was promulgated in Brazil. From then on, the long-awaited equality between men and women was established (at least in theory). Article 5(I) of the Federal Constitution states: "*Men and women are equal in rights and obligations, under the terms of this Constitution*"³⁶.

One might imagine, therefore, that everything has been resolved in this area and that a reflective assessment of the evolution of the law in this area is entirely positive. Unfortunately, it is not. One still waits for the break with tradition that the modernist movement has been seeking since 1922, so that gender equality can definitely be an outdated claim and not a discriminatory legal and social tradition perpetuated between the lines.

The example of Anita Malfatti can also be cited because she experienced another vulnerable position, as she had a disability. The Brazilian painter and Mackenzie *alumna* was born with a motor problem that forced her to be the artist she was, using her left hand because of the difficulty she had with her right hand.

The abandonment of disabled newborns and the exclusion of disabled people from social life are typical examples of problems that have persisted throughout history. Authors such as Olney Queiroz Assis and Lafayette Pozzoli point out that in Athens and Rome, the practice of abandoning disabled newborns was legally authorized, with philosopher Plato, in the 4th century BC, expressing himself on the subject in the following terms: "*Consequently, you will establish in our Republic a medicine that is limited to the care of those who have received in nature a healthy body; and, as far as those who receive a poorly organized body are concerned, to let them die*"³⁷.

³⁶ Free translation. In the original, in Portuguese: "*homens e mulheres são iguais em direitos e obrigações, nos termos desta Constituição*".

³⁷ ASSIS, Olney Queiroz; POZZOLI, Lafayette. *Pessoa portadora de deficiência: direitos e garantias*. 2ª ed. São Paulo: Damásio de Jesus, 2005, p. 50.

Unlike Greek law, which in Sparta gave the father the right to reject children with disabilities³⁸, in Brazil there has never been such an extreme provision – at least, not openly. Still, the social segregation of people with disabilities was historically so strong that it led to the enactment of the Brazilian Inclusion Law – Law No. 13.146 – in 2015, with the aim of ensuring and promoting, on equal terms, the exercise of fundamental rights and freedoms by people with disabilities, with a view to their social inclusion and citizenship (Article 1)

Aimed at inclusion and combating discrimination, the Statute for People with Disabilities – the other name given to the Brazilian Inclusion Law – can be considered a major legislative advance in the historical treatment of discrimination given to people with disabilities. Still, it is undoubtedly a legal legislative advance that is still a long way from guaranteeing a completely desirable and fair situation.

If one looks at the equality guaranteed in 1988 and the approval of a new Civil Code in 2002, after more than ten years of the constitutional text being in force, one could reasonably expect that no more specific legal diplomas would be necessary to guarantee inclusion and non-discrimination. That is a story, however, that Brazilians cannot yet write.

In this myriads of unquestionable legal advances, much remains to be achieved. Living with diversity and plurality, combating racism, poverty and inequality are just some of the problems that Brazilians are still trying to break down in order to achieve a more harmonious coexistence in a contemporary society.

Of course, in terms of the law, there has been progress over the last hundred years, especially if one look at the issue from the angle of access to information and the possibility of more transparent discussions, since the internet reveals everything (or almost everything). When it comes to the concrete reality, however, in terms of just being able to "be" equal to or different from the status quo, without this being something to be

³⁸ PALMA, Rodrigo Freitas. **História do Direito**. 4ª. ed. São Paulo: Saraiva. 2011, p. 160.

achieved or demanded, Brazil is still in search of the modernism that motivated the 1922 movement.

Final considerations

A century has passed... but today's air is reminiscent of the atmosphere of 1922.

As discussed in this article, the Week of 22 was so important that from time to time Brazilians remember its precursors and celebrate their ideas and achievements. A review of the arts, politics and law, however, shows that most of the problems have been repeated and that the challenges, desires and ruptures persist in all the areas mentioned. Discouragement? Initially, yes... but there's no need to lose hope that the goals set more than 100 years ago will be achieved. After all, in the words of journalist Marcus Augusto Gonçalves, the Week of 22's Brazilian Modernism is not over yet and maybe – yes, *maybe* – it will never end in fact.

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