

## **Criticism about structural sexism in the digital industry**

*Criticismo acerca do sexismo estrutural na indústria digital*

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**Abstract**

The present article has as its main objective to demonstrate the existence of structural sexism against women in the digital industry, having Cass R. Sunstein as theoretical framework. The problematic presented in this article is: "do women have opportunity and visibility in the labor market of the digital industry?". Finally, the methodology is embodied in the deductive method, from the bibliographical research, building the unpublished and original text.

**Keywords:** Digital Games; Gender; Labor Law.

**Resumo**

O presente artigo tem como objetivo precípua demonstrar a existência do sexismo estrutural contra mulheres na indústria digital, tendo como marco teórico Cass R. Sunstein. A problemática apresentada neste artigo é: "as mulheres possuem oportunidade e visibilidade no mercado de trabalho da indústria digital?". Por fim, a metodologia é consubstanciada no método dedutivo, a partir da pesquisa bibliográfica, construindo o texto inédito e original.

**Palavras-chave:** Jogos digitais; Gênero; Direito do Trabalho.



## Introduction

The 4th Industrial Revolution has changed the structure of society and mostly of the labor market, through the panoramic technological bulge formed by smartphones, tablets, drones, smart TV and new computers, operationalized by cloud computing, internet of things (IoT), artificial intelligence (AI), big data, the industrial IoT (IIoT), robotics, quantum computing, biotechnology, 3D printing, the digital platforms and digital applications that are all interconnected via the Internet and satellites, constituting what we call the virtual environment. Today it is increasingly common jobs that rely entirely on the internet and digital platforms, especially those platforms involving the younger generations, as is the case of E-sports.

The present study aims to analyze the three pillars of the digital industry: the production of digital games, the games themselves, and finally, the E-sports competitions, under the light of gender inequality and prejudice against women, characteristic of this new labor market.

The visualized scenario in the research explains the circular reasoning about digital games made by men, to be consumed by this same male audience and, therefore, so that the athletes of future competitions to be mostly men. Thus, there is the constitution of a new labor market made for female exclusion and based on the stigmatization of women.

In this way, the present study seeks to answer the following question: “do women have opportunity and visibility in the labor market of the digital industry?” To this purpose, we will use real and practical cases that demonstrate the reality of the digital industry environment in the case of women. After show the answer to the question raised, the paper will present some mechanisms that can cause the mitigation of this problem – one of them being the use of rights and the laws –, as well as to demonstrate possible obstacles to this mitigation.

Therefore, we will use bibliographical research and the review of documents of legal literature, in order to draw general conclusions from the observation of specific phenomena – being practical cases of women in the digital industry environment -, the inductive method will be used at this point. The deductive method will also be used for



the study of general and abstract phenomena, in order to make possible the comprehension of some specific things of the present theme.

### 1. The history of the digital games industry

In line with the worldwide technological evolution various fields, such as medicine and the means of production, the advance of technological instruments also reached the common areas of daily life, such as leisure and entertainment, including digital games as an important form of recreation. The internet, for example, starting mainly in the the third industrial revolution and intensified in the fourth industrial revolution, is now considered a digitalizing mechanism of social relations, creating a so-called Global Village<sup>1</sup>, in which international society functions in an interconnected manner through the internet<sup>2</sup>.

Thus, the global changes resulting from this technological development brought new categories of relationships and provided new forms of work, as the case of E- sports athletes, despite the fact that digital games are a form of entertainment, they also became a professional activity, generating employment and income. However, even in the face of all the progress provided, the main obstacle imposed to women throughout history is still present: gender prejudice. And in this sense, the game industry currently functions as the newest instrument of stigmatization and inferiority of women and their image.

To analyze the problematic of gender prejudice exposed, it's necessary to evaluate historically, how this global digitalization has impacted and still impacts, the gaming culture as well as its competitions: from the initially gradual development of the digital games industry, until its current apogee.

The construction of the theoretical basis of digital games was made out of the so – called Theory of Games developed along the book “Theory of games and Economic

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<sup>1</sup> Name of the new world created by Marshall McLuhan, in his work “The Gutenberg Galaxy”.

<sup>2</sup> MCLUHAN, Marshall. A galáxia de Gutenberg a formação do homem tipográfico. Tradução de Leônidas Gontijo de Carvalho e Anísio Teixeira. Volume 19. São Paulo: Companhia Editora Nacional. Universidade de São Paulo. 1972. p. 330. Disponível em: [https://monoskop.org/images/0/00/McLuhan\\_Marshall\\_A\\_galaxia\\_de\\_Gutenberg\\_A\\_formacao\\_do\\_homem\\_tipografico\\_1972\\_BR-PT.pdf](https://monoskop.org/images/0/00/McLuhan_Marshall_A_galaxia_de_Gutenberg_A_formacao_do_homem_tipografico_1972_BR-PT.pdf). Acesso em: 24 de outubro de 2020.



behavior” written by mathematicians John Von Neumann and Oskar Morgenstem<sup>3</sup>. In this point, the first electronic game was developed in 1958 by physicist Willy Higinbothom<sup>4</sup> called Tennis Programing or Tennis for two, the game relied on analog computer as well as presented simple functions in which the player just hit balls<sup>5</sup>.

The first competition in the area of digital games was in October 1972, according to Brazilian E- sports Confederation (CBES) and was named “Intergalactic Spacewar Olympics”. This event was a competition for students of Stanford University in the United States<sup>6</sup>.

With the increase in technology and the popularization of internet, in the 2000s a significant change in the number of players interested in this game industry. This configuration is proven by the exponential growth of the digital market, which moved about \$ 175.8 billion in 2021 and presents projections of US\$ 200 billion in 2023<sup>7</sup>. As a result of a greater demand of people interested in digital games, there was consequently, an increase in tournaments and competitions, the main ones being the “World Cyber Games”, the “Intel Extreme Masters”, and the “Major League Gaming”<sup>8</sup>.

The popularization as well as mediatization of E-sports competitions - and also the gaming industry itself – has increased with the spread of streaming services. Currently the Twitch<sup>9</sup>, launched in 2009 is the main channel of games capitalizing on about 24 billion of content viewed in 2021.

The E-sports phenomenon has developed to the point of having professional training routines similar to those of traditional sports such as football. This training is developed in gaming offices and games house, which are similar to football training

<sup>3</sup> GELOZENE, Fernando Ramos; ARIELO, Flavia Santos. Uma breve análise sobre a Indústria de Jogos Eletrônicos e os Indie Games. Revista Multiplicidade, Volume VIII, Ano VII. São Paulo: Bauru. 2017. p. 149.

<sup>4</sup> GELOZENE, Fernando Ramos; ARIELO, Flavia Santos. Uma breve análise sobre a Indústria de Jogos Eletrônicos e os Indie Games. Revista Multiplicidade, Volume VIII, Ano VII. São Paulo: Bauru. 2017. p. 150.

<sup>5</sup> GELOZENE, Fernando Ramos; ARIELO, Flavia Santos. Uma breve análise sobre a Indústria de Jogos Eletrônicos e os Indie Games. Revista Multiplicidade, Volume VIII, Ano VII. São Paulo: Bauru. 2017. p. 149.

<sup>6</sup> Confederação Brasileira de e-Sports. História do e-Sport. 2020. Disponível em: <http://cbesports.com.br/esports/historia-do-esports/>. Acesso em: 24 de outubro de 2020.

<sup>7</sup> PACETE, Luiz Gustavo. 2022 promissor: mercado de games ultrapassará US\$ 200 bi até 2023. Forbes. Disponível em: <https://forbes.com.br/forbes-tech/2022/01/com-2022-decisivo-mercado-de-games-ultrapassara-us-200-bi-ate-2023/>. Acesso em 28 de março de 2022.

<sup>8</sup> Confederação Brasileira de e-Sports. História do e-Sport. 2020. Disponível em: <http://cbesports.com.br/esports/historia-do-esports/>. Acesso em: 24 de outubro de 2020.

<sup>9</sup> Website focused on the transmission of digital games and e-Sports competitions, with live or on-demand transmission.



centers (CT) with set times for training, without the players spending the night there<sup>10</sup>. As far as the game houses are concerned, the training system is the same, differing by its characteristic of housing, since the players sleep at the training place, keeping pre-determined schedules and subject to greater flexibility<sup>11</sup>.

Therefore, we can see the materialization of the success of the market on the screen and the establishment of the digital games industry as one of the most important in the entertainment with an average annual growth, between 2015 and 2019 of 5.7% invoicing US\$ 93.18 billion in 2019<sup>12</sup>.

However, although it features several technological and cultural innovations, the industry remains stagnant in relation to gender prejudice, stigmatizing the image of women, both in terms of female players and professionals in the area, as well as hypersexualized female characters in games. By this logic, the female presence should be analyzed from the process of production of games to their popularization, commercialization and finally, their space in E- sports tournaments.

As such, this study will demonstrate how the structure – oriented to males around all the stages before these competitions was developed in a way that creates an exclusionary environment for women. These stages are follows: (i) game creation and development, (ii) active involvement in the gamer community, and (iii) the E- sports competitions, which to this day are shaped by the interests of the male audience. Finally, it will be pointed out how women are portrayed in games, within the gamer universe itself.

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<sup>10</sup> Confederação Brasileira de e-Sports. O que são os e-Sports. 2020. Disponível em: <http://cbesports.com.br/esports/esports-o-que-sao/>. Acesso em: 24 de outubro de 2020.

<sup>11</sup> Confederação Brasileira de e-Sports. O que são os e-Sports. 2020. Disponível em: <http://cbesports.com.br/esports/esports-o-que-sao/>. Acesso em: 24 de outubro de 2020.

<sup>12</sup> SAKUDA, Luiz. Plataformas digitais e o novo espírito do capitalismo: Estudo sobre a indústria de jogos digitais. Itáu Cultural. 2018. p. 05. Disponível em: <https://www.itaucultural.org.br/plataformas-digitais-e-o-novo-espírito-do-capitalismo-estudo-sobre-a-indústria-de-jogos-digitais>. Acesso em: 26 de outubro de 2020.



## 2. Female identification and participation in the digital games industry

The problem of gender prejudice in the digital industry begins in the childhood. The parents, through social conditioning induce the perspective that “video games are for boys” in the process of raising and educating their daughters and their sons. And “If you don’t give girls access to video games, then they are not interested in technology or gaming courses”<sup>13</sup>, thus characterizing one of the reasons for the removal of women in the production of games<sup>14</sup>. This situation reflexes in the future of these children, impacting on the academic and professional path that they decide to follow.

This impact can be measured from an observation of the annual awards called “The Game Awards”, created in 2014 whose purpose is to reward the best games, coaches, players among other aspects of this industry.

When looking at the list of winners present in the official site of awards, it is noticeable the scarce presence of women in the rankings. It is worth highlighting the “game of the year” category which in eight years of history has never awarded a game with a female plot or protagonist. The only award – winning games that feature women in the central core of characters, though without granting mentioned are “Uncharted 2: Among Thieves” and the current winner “The Last of Us 2”.

This criticism, however, is not directed exactly to the award, but to the industry that, considering the little investment made in dynamics aimed at gender diversity, ends up lacking female representation in their universe. And this scenario generates the feeling of not belonging from the female audience, considering that it has almost nonexistent digital representation, which causes a lack of perspective to entering in this job market. In this vein, the production of games has a smaller number of women working in the area, compared to the number of male workers. According to a survey conducted by the Next Gen Skills Academy, in the United Kingdom, until 2014 it had been average, 14% of women

<sup>13</sup> GIOVANI, Bárbara Paro; PORTELA, Nathalie; FERREIRA, Yuri. Mulheres e games: a presença feminina que cresce envolta por um ambiente machista. Repórter UNESP. 2017. Disponível em: <http://reporterunesp.jor.br/2017/06/07/mulheres-e-games-a-presenca-feminina-que-cresce-envolta-por-um-ambiente-machista/>. Acesso em 30 de outubro de 2020.

<sup>14</sup> GIOVANI, Bárbara Paro; PORTELA, Nathalie; FERREIRA, Yuri. Mulheres e games: a presença feminina que cresce envolta por um ambiente machista. Repórter UNESP. 2017. Disponível em: <http://reporterunesp.jor.br/2017/06/07/mulheres-e-games-a-presenca-feminina-que-cresce-envolta-por-um-ambiente-machista/>. Acesso em 30 de outubro de 2020.



working as game developers<sup>15</sup>. A practical case analysis is passes to better understand this statistic and the structure of the digital industry.

An emblematic case is the one of Riot Games, the game's developer LeagueofLegends. The company is currently facing a multimillion-dollar labor lawsuit in Los Angeles Superior Court over the sexism suffered by women in this production chain. The process in question is a collective action that has nearly 1,000 women who have worked at Riot since 2014 and have suffered from aforementioned discriminations. Furthermore, she has also been accused of violating the California's Equal Pay Act and the Law against gender discrimination in the workplace. The investigation of these occurrences' discrimination began with an article published in 2018 by Kotaku-Gaming Reviews, News, Tips and More tiled "Inside The Culture of Sexism at RiotGames". This publication showed how women were discriminated against and demoted because of their gender in the company and how because of an such environment, many ended up leaving work<sup>16</sup>. The aforementioned research provides that:

"at Silicon Valley-based companies like Google and Apple, only a quarter of "professional" jobs—like engineers, designers and analysts—were held by women in 2016, according to Reveal, a project from The Center for Investigative Reporting. When it comes to leadership positions, that number is much lower. In the technology field, the quit rate for women is over twice as high as it is for men, according to a study by the National Center for Women & Information Technology. One report surveying 3,700 women in engineering detailed how women in these fields felt they had fewer opportunities for advancement and a higher rate of feeling undermined by managers"<sup>17</sup>

These data make it clear that the job market in the gaming industry is composed mostly of men and presents content developed, as a rule, for the male audience. More than that, they support the notion that the toxic environment for women in the gaming industry stems from male dominance in the industry and its corporate governance. It is

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<sup>15</sup> BATISTOTI, Vitória; GUILLEN, Fernanda. A atuação feminina no universo dos games. Universidade de São Paulo: Jornal Campus. 2015. Disponível em: <http://www.jornaldocampus.usp.br/index.php/2015/11/a-atuacao-feminina-no-universo-dos-games/>. Acesso em: 26 de outubro de 2020.

<sup>16</sup> D'ANASTASIO, Cecilia. Insidethecultureofsexismat Riot Games. KOTAKU - Gaming Reviews, News, Tips and More. 2018. Disponível em: <https://kotaku.com/inside-the-culture-of-sexism-at-riot-games-1828165483>. Acesso em: 23 de janeiro de 2021.

<sup>17</sup> D'ANASTASIO, Cecilia. Insidethecultureofsexismat Riot Games. KOTAKU - Gaming Reviews, News, Tips and More. 2018. Disponível em: <https://kotaku.com/inside-the-culture-of-sexism-at-riot-games-1828165483>. Acesso em: 23 de janeiro de 2021





important to mention, at this point, that of the 23 (twenty-three) senior leadership positions at Riot, 21 (twenty-one) of them are made up of men<sup>18</sup>.

It is also worth mentioning the horizontal and vertical segregation related to games industry. The first occurs decisions based on their skills developed over their lifetime<sup>19</sup>. This development, however, is influenced by gender stigmas that drive women away from areas of sciences and technologies, so these decisions are often based on the social pattern of male and female professions<sup>20</sup>.

The vertical, as far as it is concerned, works as an instrument of invisibility, causing the woman to remain in subordinate positions, not advancing in their careers, when inserted in areas with male predominance, reaffirming the devaluation of women<sup>21</sup>. This segregation impacts on favoring male careers in hierarchical and salary aspects<sup>22</sup>.

This demonstrates that in the digital games industry both segregations function as a mechanism to propagate gender inequality. Thus, a highly toxic digital gaming environment is built for women, from hypersexualization of the female image, to the treatment given to the women players.

Beside the scope of digital game development, it is necessary to talk about another pillar of the digital games industry: the female presence in E- sports. The digital sport, due to its development and popularity, has become, as mentioned above, a way of working in today's society. That is, the games are no longer just entertainment and have become a source of income for those who play and not just for those who produce them.

However, the gender discriminatory scenario also extends to the sphere of competitions. In this area, it's worth mentioning the case of the women's team of

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<sup>18</sup> D'ANASTASIO, Cecilia. Inside the culture of sexism at Riot Games. KOTAKU - Gaming Reviews, News, Tips and More. 2018. Disponível em: <https://kotaku.com/inside-the-culture-of-sexism-at-riot-games-1828165483>. Acesso em: 23 de janeiro de 2021.

<sup>19</sup> OLINTO, Gilda. A inclusão das mulheres nas carreiras de ciência e tecnologia no Brasil. Revista Inclusão Social, v. 5, n. 1, 28 nov. 2012. p. 69. Disponível em: <http://revista.ibict.br/inclusao/article/view/1667>. Acesso em: 02 de novembro de 2020.

<sup>20</sup> OLINTO, Gilda. A inclusão das mulheres nas carreiras de ciência e tecnologia no Brasil. Revista Inclusão Social, v. 5, n. 1, 28 nov. 2012. p. 69. Disponível em: <http://revista.ibict.br/inclusao/article/view/1667>. Acesso em: 02 de novembro de 2020.

<sup>21</sup> OLINTO, Gilda. A inclusão das mulheres nas carreiras de ciência e tecnologia no Brasil. Revista Inclusão Social, v. 5, n. 1, 28 nov. 2012. p. 69. Disponível em: <http://revista.ibict.br/inclusao/article/view/1667>. Acesso em: 02 de novembro de 2020.

<sup>22</sup> OLINTO, Gilda. A inclusão das mulheres nas carreiras de ciência e tecnologia no Brasil. Revista Inclusão Social, v. 5, n. 1, 28 nov. 2012. p. 69. Disponível em: <http://revista.ibict.br/inclusao/article/view/1667>. Acesso em: 02 de novembro de 2020.



LeagueofLegends, Vaevicts, that was expelled from the LeagueofLegends Continental League (LCL) under the justification of low performance, given several negative results throughout the competition. However, the expulsion penalty was not applied to the team's RoXe Vega Squadron which received continuous warnings for conducting anti-sports, sexist against the women's team<sup>23</sup>.

When comparing the decisions taken by LCL, the perception of the performance conniving of the E-sports industry with the gender discrimination characteristic of competitions perpetuating a toxic and discouraging environment for women.

As a consequence, there is less visibility and female representation in E-sports tournaments, despite the majority of the female audience. According to Juliana Afonso, Founder of the Sakura Project<sup>24</sup>, "many believe that women really don't have the ability to play at a high level. Therefore, the teams do not seem to have an interest in hiring women"<sup>25</sup>. In addition, players need to deal with the discredited for their achievements, given the judgment that women are not able to stand out on their own merits.

In 2019, the Fortnite World Cup took place in the United States, which featured 200 players, selected from 40 million candidates and 3 million dollars in prizes. However, none of these players were women. Second Tina Perez, professional player, women withdraw from high-level competition due to harassment, fear and the feeling of not being qualified<sup>26</sup>.

On the other hand, in the rare cases in which women are included in the "elite sports" their achievements are underserved and reduced to their gender. The player Daniella "Cherna" Andrade, 19 years old, after being the only woman nominated for the best athlete of Rainbow Six: Siege of the E-sports Brasil award, suffered from comments

<sup>23</sup> ARBULU, Rafael. Equipe feminina de LOL, Vaevicts é removida da LCL por baixo desempenho. CanalTech. 2020. Disponível em: <https://canaltech.com.br/esports/equipe-feminina-de-lol-vaevictis-removida-da-lcl-por-baixo-desempenho-160703/#:~:text=A%20equipe%20feminina%20rusa%20de,dentro%20de%20uma%20competi%C3%A7%C3%A3o%20fechada%E2%80%9D>. Acesso em: 23 de janeiro de 2021.

<sup>24</sup> The Sakura Project offers online psychological care to Brazilians around the world. Disponível em: <https://projetosakura.com.br/>.

<sup>25</sup> HÍGIDIO, José; MUNIZ, Bianca. Participação feminina nos eSports: entre desafios e representatividade. Jornalismo Júnior. ECA-USP. 2019. Disponível em: <http://jornalismojunior.com.br/participacao-feminina-nos-esports-entre-desafios-e-representatividade/>. Acesso em: 20 de janeiro de 2021.

<sup>26</sup> VIEIRA, Nathan. Por que nenhuma mulher competiu na Copa do Mundo de Fortnite?. Canaltech. 2019. Disponível em: <https://canaltech.com.br/games/por-que-nenhuma-mulher-competiu-na-copa-do-mundo-de-fortnite-145719/>. Acesso em 10 de dezembro de 2020.



such as “they only put her because she’s a woman” and “They want to put a girl down the throat among the best ones”<sup>27</sup>. Such comments perpetuate the discomfort in this environment, the lack of validation of female achievements and, mainly, the disincentive for female athletes to grow in the hierarchy of digital games<sup>28</sup>.

The attrition resulting from the environment under analysis made players began to use male nicknames in order to avoid everyday prejudice. One research by University of Ohio showed that 100% of the interviewees, that used to play for 22 hours a week, suffered some type of harassment<sup>29</sup>. This same research says that among the aggressions suffered, the main ones are threats and rape jokes, physical insults and sexist, requests for sexual favors in exchange for help in the game and stalking<sup>30</sup>. Another consequence of this reality is the development of symptoms of psychological conditions, such as depression, given the exposure to this hostile environment<sup>31</sup>.

### 3. Hypersexualization of women by the digital industry

After pointing out women’s participation in the gaming industry, whether in their production or properly as players, it’s time to enter the status quo of digital games, being necessary to understand how women are portrayed in this gamer universe, that is, within the games themselves.

<sup>27</sup> NOGUEIRA, Alberto. Mulheres enfrentam machismo no caminho para a elite dos eSports. A CidadeON. 2019. Disponível em: <https://www.acidadeon.com/NOT,0,0,1434239,Mulheres+enfrentam+machismo+no+caminho+para+a+elite+dos+eSports.aspx>. Acesso em: 12 de janeiro de 2021.

<sup>28</sup> NOGUEIRA, Alberto. Mulheres enfrentam machismo no caminho para a elite dos eSports. A CidadeON. 2019. Disponível em: <https://www.acidadeon.com/NOT,0,0,1434239,Mulheres+enfrentam+machismo+no+caminho+para+a+elite+dos+eSports.aspx>. Acesso em: 12 de janeiro de 2021.

<sup>29</sup> FOX, Jesse; TANG, WaiYen. Women’s experiences with general and sexual harassment in online video games: Rumination, organizational responsiveness, withdrawal, and coping strategies. *New media & Society*. 2016. doi.org/10.1177/1461444816635778n. 2017, Vol. 19. p. 1293-1294.

<sup>30</sup> FOX, Jesse; TANG, WaiYen. Women’s experiences with general and sexual harassment in online video games: Rumination, organizational responsiveness, withdrawal, and coping strategies. *New media & Society*. 2016. doi.org/10.1177/1461444816635778n. 2017, Vol. 19. p. 1294.

<sup>31</sup> FOX, Jesse; TANG, WaiYen. Women’s experiences with general and sexual harassment in online video games: Rumination, organizational responsiveness, withdrawal, and coping strategies. *New media & Society*. 2016. doi.org/10.1177/1461444816635778n. 2017, Vol. 19. p. 1295.



First, it is important to explain how the design of a character is created. According to Gard, this point is based on the game environment and gameplay in a way that directly affects how the characters are visually presented<sup>32</sup>. It is important to emphasize that the identification of the player with the story told is based on the observation of how the character's characteristics align with the universe of narrative and future challenges.

The visual identity of the games is related to the presentation of the characters. That is, their clothes and bodies are developed in a way befitting your stories. However, this reasoning does not apply to female characters, since its visual identity is highly sexualized and based on the body, without any consistency with the story being told. This is the case, for example, with games Takken, Street Fighter, Soul Calibur, Darkstalkers, in which the presentation of almost all characters occurs in a sexualized way<sup>33</sup>. The mentioned games despite being fighting games, show that the focus of female characters design is not linked to such characteristic, but to sexual attributes.

In general, the games use the sexuality of the female characters in a central way, leaving aside their stories or the context of the narrative. So, any character, regardless of her personal characteristics, is represented in an eroticized way, fulfilling the appeal to female sexualization as advertisement for consumers<sup>34</sup>.

It is necessary to highlight the main forms of female representation in digital games. They are (i) the lady in trouble representing fragile characters who need to be saved, (ii) women as decoration, who are not playable characters and only to be part of the environment, (iii) women as a reward, that is, the prize received at the end of the game. In general, women are portrayed as objects to be admired or saved, not as people with characteristics and abilities potential to add elements to the narrative or actually star in the story narrated in the digital game<sup>35</sup>.

<sup>32</sup> GARD, T., 2000. BuildingCharacter [online], disponível em: [http://www.gamasutra.com/features/20000720/gard\\_01.h](http://www.gamasutra.com/features/20000720/gard_01.h)™. In: DIEHL, Daniel de Mesquita; MELCO, Marcos Tadeu; DUBIELA, Rafael. Modelo de criação de personagens para jogos digitais. SBC - ProceedingsofSBGames. 2011. p. 04.

<sup>33</sup> ARAÚJO, Guilherme Pedrosa Carvalho de; PEREIRA, Georgia da Cruz. Nua e Crua: Análise crítica da hipersexualização e a representação feminina nos jogos de luta. Universidade Federal de Goiás: V Simpósio Internacional de Inovação em Mídias Interativas. 2018. p. 273.

<sup>34</sup> ARAÚJO, Guilherme Pedrosa Carvalho de; PEREIRA, Georgia da Cruz. Nua e Crua: Análise crítica da hipersexualização e a representação feminina nos jogos de luta. Universidade Federal de Goiás: V Simpósio Internacional de Inovação em Mídias Interativas. 2018. p. 280.

<sup>35</sup> AMORIM, Fernando Mello de; LEÃO, ShayenneNobumitsu; LIAO, Gabriel Gimenes; GALLO, Sérgio Nestriuk. A indumentária nos jogos digitais: Incoerência nas representações femininas.XVSBGames. ISSN: 2179-2259. São Paulo. 2016. p. 275-276.



The female image in games is hypersexualized and stereotyped to fit into products created by men and for men, that is, aiming at preferences of this public. This image causes a lack of adequate female representations in digital games, due to the lack of protagonists and heroines<sup>36</sup>, as well as provides the perception that sexualized representation is the only way in which women can be characterized in this industry<sup>37</sup>.

The female hypersexualization occurs in a banalized and systematic way within society itself, and not only with the environment of digital games, making the objectification of the woman's body to be rooted in all social environments<sup>38</sup>. That feature works as a profit mechanism in a capitalist society, since women are used as a form of advertising and service provision. As an example, the advertisements for cars and beverages, products that, for many years, were considered mostly male and had their development and publicity based on aspects of interest to this public.

According to Butler, gender is sexually constructed, that is, the expectations applied to women and by extension, to their bodies, are based on a social portrait<sup>39</sup>. Therefore, the way in which women are exposed in society shows that their value is linked to their body type and sexuality, rather than personality, accomplishments or capabilities<sup>40</sup>.

The digital games industry, specifically, ends up representing a portrait of society, reproducing the same conception that women, including the characters created for the games, need to use their bodies as weapons and/or main characteristics.

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<sup>36</sup> NASCIMENTO, Jéssica. Estereótipos femininos nos jogos eletrônicos online: um estudo sobre representações de gênero em *League of Legends*. Trabalho de Conclusão de Curso (Bacharelado em Comunicação Social). Faculdade de Comunicação da Universidade Federal da Bahia. 2016. p. 35.

<sup>37</sup> NASCIMENTO, Jéssica. Estereótipos femininos nos jogos eletrônicos online: um estudo sobre representações de gênero em *League of Legends*. Trabalho de Conclusão de Curso (Bacharelado em Comunicação Social). Faculdade de Comunicação da Universidade Federal da Bahia. 2016.

<sup>38</sup> COSTA, Anna Kerly Souza da. Hipersexualização frente ao empoderamento: a objetificação do corpo feminino evidenciada. In: MAGALHÃES, Joanalira; RIBEIRO, Paula; SEFFNER, Fernando; VILAÇA, Teresa (org). *Corpo, gênero e sexualidade: resistência e ocupações nos espaços de educação*. Editora da Universidade Federal do Rio Grande. 2018. p. 01. Disponível em: [https://7seminario.furg.br/images/livro\\_do\\_seminario.pdf](https://7seminario.furg.br/images/livro_do_seminario.pdf). Acesso em: 02 de novembro de 2020.

<sup>39</sup> RODRIGUES, Carla. Butler e a desconstrução do gênero. *Revista Estudos Feministas*. vol.13 no.1 Florianópolis. 2005. p. 179. <https://doi.org/10.1590/S0104-026X2005000100012>. Acesso em: 10 de janeiro de 2021.

<sup>40</sup> ARAÚJO, Guilherme Pedrosa Carvalho de; PEREIRA, Georgia da Cruz. Nua e Crua: Análise crítica da hipersexualização e a representação feminina nos jogos de luta. *Universidade Federal de Goiás: V Simpósio Internacional de Inovação em Mídias Interativas*. 2018. P. 272.



At this point, the circular relationship applies to the production of games made by men and for men, developing an electronic universe specifically designed for the comfort and interest of men. The aspects of digital games generate the hypersexualization of women and gender inequality in this community, as well as contributing to the development of a toxic and discouraging environment for women. The game itself ends up portraying the women as inferior being, which ends up going beyond the video game screens, as could be seen in the analysis of the female participation during the production of the games and in E-sports competitions.

Still, this scenario of gender prejudice present in the gaming industry is unsustainable. Besides being a morally and legally reprehensible attitude, this situation is even more alarming when analyzing the growing female participation in the gamer community, consuming games that have been produced especially for the male audience<sup>41</sup>. In this sense, it is necessary to analyze the measures that have been taken to address the gender prejudice in the industry and which other measures have proven effective in solving the problem.

#### **4. Measures needed to address the issue of female participation in the digital industry, as well as the problem of hypersexualization**

The issue explored in this study raises several implications for the digital industry, e-sports competitions and as will be addressed below, in the law. First, we will analyze the instruments used by the competitions, platforms and, mainly, by the female players themselves, with the intention of mitigating the occurrence. However, it is necessary to explain that these mechanisms are not an effective solution to the problem, being essential to use the legislation as an instrument of female protection in relations resulting from the digital industry.

First, there is the project “My Game My Name”, which was created to show how women need to use male nicknames to avoid online harassment. It features several

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<sup>41</sup> The survey Games Brasil in 2019 showed that 53% of the Brazilian gamer audience is composed of women. In: ROSA, Natalie. 53% do público gamer no Brasil são mulheres, diz pesquisa. Canal Tech. 2019. Disponível em: <https://canaltech.com.br/games/53-do-publico-gamer-no-brasil-sao-mulheres-diz-pesquisa-143107/>. Acesso em: 22 de janeiro de 2021.



female gamers, who tell their experiences and, through the sharing of stories, create a support network within the E-sports community. In addition, My Game My Name has invited men to play behind the female names on the platforms, in order to provide awareness about the gender prejudice in the mentioned environment.

Danielle “Cherna”, already mentioned in this paper, after being a victim of sexual harassment, founded the Associação Feminina de Gaming Brasil (AFGB)<sup>42</sup>, a non-profit association which aims to provide legal assistance as well as psychological support to victims of any kind of gender and race violence in the digital environment<sup>43</sup>. It also aims to encourage more women to take part in this job market through actions, governmental and private projects or even with independent actions<sup>44</sup>.

The founder aims to structure the project according to support and partnership growth. However, in addition to these attributions, the project intends to act as supervisory agency in order to receive and follow up on complaints, re-educating the teams for future competitions<sup>45</sup>. According to her, the first step is the environment be safe for women, and one of the proposals of the AFGB is to ban, in official competitions, athletes involved in sexual scandals<sup>46</sup>.

Another outstanding action is the Girl Gamer eSports Festival, an event directed to women interested in the gamer scenario. This festival includes games, concerts, lectures, panel discussions about careers, among other activities. With its first edition in 2017, the event aimed to show the E-sports community the potential of women, as well as to function as a forum for female gamers, as well as act as a tool to combat discrimination and prejudice present in the online gaming environment<sup>47</sup>.

<sup>42</sup> Women’s Association of Gaming Brazil (translation).

<sup>43</sup> QUEIROGA, Luiz. Após denúncias, Cherna cria associação de ajuda às mulheres nos eSports. O Globo. 2021. Disponível em: <https://globoesporte.globo.com/esports/noticia/apos-denuncias-cherna-cria-associacao-de-ajuda-as-mulheres-nos-esports.ghtml>. Acesso em: 12 de janeiro de 2021.

<sup>44</sup> QUEIROGA, Luiz. Após denúncias, Cherna cria associação de ajuda às mulheres nos eSports. O Globo. 2021. Disponível em: <https://globoesporte.globo.com/esports/noticia/apos-denuncias-cherna-cria-associacao-de-ajuda-as-mulheres-nos-esports.ghtml>. Acesso em: 12 de janeiro de 2021.

<sup>45</sup> QUEIROGA, Luiz. Após denúncias, Cherna cria associação de ajuda às mulheres nos eSports. O Globo. 2021. Disponível em: <https://globoesporte.globo.com/esports/noticia/apos-denuncias-cherna-cria-associacao-de-ajuda-as-mulheres-nos-esports.ghtml>. Acesso em: 12 de janeiro de 2021.

<sup>46</sup> QUEIROGA, Luiz. Após denúncias, Cherna cria associação de ajuda às mulheres nos eSports. O Globo. 2021. Disponível em: <https://globoesporte.globo.com/esports/noticia/apos-denuncias-cherna-cria-associacao-de-ajuda-as-mulheres-nos-esports.ghtml>. Acesso em: 12 de janeiro de 2021.

<sup>47</sup> SILVA, Renata Laudares; TEODORO, Ana Paula Evaristo Guizarde; RODRIGUES, Nara Heloisa. GirlGamereSports Festival - Parcerias e Patrocínios na Era dos eSports. Revista de Gestão e Negócios de eSports (RGNE). 2020. p. 26. Disponível em:



The change related to gender prejudice in the gamer world initially happens internally, with the instruments mentioned. However, only these actions alone are not enough to mitigate the root of the problem, being necessary the interference of the law, with an improvement of the existing regulation, in order to discourage gender discrimination in the context of digital games.

This is so, because “existing social norms encourage many risky behaviors”<sup>48</sup>, such as those narrated in the gamer world, and almost all of these risks could be greatly reduced with different norms that seek a regulatory policy grounded and effective strategy to discourage such behaviors<sup>49</sup>. Furthermore, “social norms are also an integral part of race and gender equality systems. If norms were changed, existing inequalities would be greatly reduced”<sup>50</sup>.

Considering that many digital platforms are headquartered abroad, and that many of the games take place online with players from different places in the world, in an evident globalized character, there is a need to seek a regulatory policy of equality, with the updating and production of new normative texts, not only nationally, but also in an internationally level.

It is noteworthy that there are already numerous international treaties and norms for gender equality, one of the main ones being the Convention on the Elimination of All Forms of Discrimination against Women, adopted by the General Assembly of the United Nations in 1979. This Convention, in its introductory character states that:

discrimination against women violates the principles of equal rights and respect for human dignity rights and respect for human dignity, hinders the participation, under the same conditions as men, in the political, social, economic and cultural life of their country, constitutes an obstacle to increasing the well-being of society and the family, and

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<http://revistagestaodoesporte.com.br/local/revista/artigos/V5N1/2%20-%20GirlGamer%20eSports%20Festival%20-%20Parcerias%20e%20Patroc%C3%ADnios%20na%20Era%20dos%20eSports.pdf>. Acesso em: 13 de dezembro de 2020.

<sup>48</sup> SUNSTEIN, Cass R. Social norms and social roles. *Columbia Law Review*, vol. 96:903, p. 903-968, 1996. p. 07. Disponível em: [https://chicagounbound.uchicago.edu/cgi/viewcontent.cgi?article=12456&context=journal\\_articles](https://chicagounbound.uchicago.edu/cgi/viewcontent.cgi?article=12456&context=journal_articles). Acesso em 26 de março de 2022.

<sup>49</sup> SUNSTEIN, Cass R. Social norms and social roles. *Columbia Law Review*, vol. 96:903, p. 903-968, 1996. p. 07.

<sup>50</sup> SUNSTEIN, Cass R. Social norms and social roles. *Columbia Law Review*, vol. 96:903, p. 903-968, 1996. p. 07.

[https://chicagounbound.uchicago.edu/cgi/viewcontent.cgi?article=12456&context=journal\\_articles](https://chicagounbound.uchicago.edu/cgi/viewcontent.cgi?article=12456&context=journal_articles). Acesso em 26 de março de 2022.





hinders the full development of women's potential to be of their service to their country and to humanity

It is also worth mentioning the Inter-American Convention to Prevent, Punish and Eradicate Violence against Women - also known as the Belém do Pará Convention approved by the General Assembly of the Organization of American States in 1994. In its preamble, it states that "violence against women constitutes a violation of human rights and fundamental freedoms and totally or partially limits to women the recognition, enjoyment and exercise of such rights and freedoms".

Although varied, none of these international instruments directly address the issue of gender discrimination in technological domain, including the universe of the digital games industry. Such an approach would be of great value, especially considering the technological advances by the Fourth Industrial Revolution, in which relationships are happening primarily in the virtual world - including the relationships between players in a given game, which are prone to gender discrimination. Moreover, besides being outdated in this technological aspect, outside the purely theoretical field, they have also not been able to effectively address the issue of gender inequality then.

This is because "there are limits to what can be done through the use of laws."<sup>51</sup> For example, there are countless countries that have wonderful constitutions with explicit provision of individual guarantees, among them rights against gender discrimination<sup>52</sup> - with emphasis here on the Constitutions of the Federative Republic of Brazil of 1988 -, however, these constitutional laws end up not having any practical value in mitigating this problem<sup>53</sup>.

It's pointed out that "some jurists tend to think that most of the problem of gender discrimination occurs because of the law"<sup>54</sup> - which is not an erroneous premise, especially considering that until recently in Brazil, with the Civil Code of 1916, women were subordinate to their husbands with legal supports and legal basis. However, a good

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<sup>51</sup> SUNSTEIN, Cass R. Gender, caste, and law. In: NUSSBAUM, Martha C.; GLOVER, Jonathan. Women, culture, and development. Oxford University Press Inc., New York, 1995. p. 354.

<sup>52</sup> SUNSTEIN, Cass R. Gender, caste, and law. In: NUSSBAUM, Martha C.; GLOVER, Jonathan. Women, culture, and development. Oxford University Press Inc., New York, 1995. p. 354.

<sup>53</sup> SUNSTEIN, Cass R. Gender, caste, and law. In: NUSSBAUM, Martha C.; GLOVER, Jonathan. Women, culture, and development. Oxford University Press Inc., New York, 1995. p. 354.

<sup>54</sup> SUNSTEIN, Cass R. Gender, caste, and law. In: NUSSBAUM, Martha C.; GLOVER, Jonathan. Women, culture, and development. Oxford University Press Inc., New York, 1995. p. 355.



part of this problem lies in another relevant aspect: in the patriarchal customs rooted in society, “and this is visible in many nations which the line between law and custom is illusory”<sup>55</sup>.

Thus, it is evident that it is necessary to “be able to endow such legal provisions with effectiveness, ensuring that they are fulfilled in spite of the dominant patriarchal culture”<sup>56</sup>. And “for the legal guarantees to be effective, a number of favorable conditions must be obtained, one of which is to have an independent Judiciary, capable of enforcing legal rights against public and private institutions”<sup>57</sup>, and here, specifically, against the digital games industry, from the hiring of female professionals, to the creation of female characters that are better represented in the games developed, without the occurrence of unnecessary hypersexualization that is unnecessary and unrelated to the context of the game.

It is important, and necessary, to present the possibility that women victims of discrimination and violence in the context of games, as well as in other aspects of life, may appeal “to the Judiciary in order for it to apply and execute the protective devices of their specific human rights, both those contemplated directly by national legislation, as well as others resulting from the adherence [...] to international treaties”<sup>58</sup>.

However, even when a strong judiciary is present, legal rights mean very little if people do not have access to lawyers or other professionals and/or institutions that can make credible threats against violators of these equal rights<sup>59</sup>. Thus, “all of this suggests that the law can operate against gender inequality only if the nation has several resources of a legal culture”<sup>60</sup>.

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<sup>55</sup> SUNSTEIN, Cass R. Gender, caste, and law. In: NUSSBAUM, Martha C.; GLOVER, Jonathan. Women, culture, and development. Oxford University Press Inc., New York, 1995. p. 355.

<sup>56</sup> MONTEBELLO, Mariana. A proteção internacional aos direitos da mulher. Revista da Escola da Magistratura do Estado do Rio de Janeiro, v. 3, n. 11, p. 155-170, 2000. p. 169. Disponível em: [https://www.emerj.tjrj.jus.br/revistaemerj\\_online/edicoes/revista11/revista11\\_155.pdf](https://www.emerj.tjrj.jus.br/revistaemerj_online/edicoes/revista11/revista11_155.pdf). Acesso em 26 de março de 2022.

<sup>57</sup> SUNSTEIN, Cass R. Gender, caste, and law. In: NUSSBAUM, Martha C.; GLOVER, Jonathan. Women, culture, and development. Oxford University Press Inc., New York, 1995. p. 356.

<sup>58</sup> MONTEBELLO, Mariana. A proteção internacional aos direitos da mulher. Revista da Escola da Magistratura do Estado do Rio de Janeiro, v. 3, n. 11, p. 155-170, 2000. p. 169-170. Disponível em: [https://www.emerj.tjrj.jus.br/revistaemerj\\_online/edicoes/revista11/revista11\\_155.pdf](https://www.emerj.tjrj.jus.br/revistaemerj_online/edicoes/revista11/revista11_155.pdf). Acesso em 26 de março de 2022.

<sup>59</sup> SUNSTEIN, Cass R. Gender, caste, and law. In: NUSSBAUM, Martha C.; GLOVER, Jonathan. Women, culture, and development. Oxford University Press Inc., New York, 1995. p. 356.

<sup>60</sup> SUNSTEIN, Cass R. Gender, caste, and law. In: NUSSBAUM, Martha C.; GLOVER, Jonathan. Women, culture, and development. Oxford University Press Inc., New York, 1995. p. 356.



If this culture does not exist, it becomes even more evident the need to use international law - a need that was already evident in the face of the globalized digital game industry.

It's necessary, therefore, a combination between the actions/movements carried out by private individuals - according to the examples mentioned in which the players took the lead to try to see some change in the discriminatory scenario – and application of a regulatory policy that may amend/improve legislation on gender equality, especially those of an international scope. This combination is important because “a movement for gender equality can help energize the law; and an effort to inculcate the legal principles of equality of gender can also have widespread social effects”<sup>61</sup>.

## Conclusion

Facing the problem presented, the study in question used the historical evolution of the digital industry, which took place in the 4th Industrial Revolution, to explain the social conditioning for the exclusion of women from the development market of Digital games.

In this logic, it was presented the social foundations that explain the consequences of such conditioning for women's careers in these new positions of work. As a consequence, it was presented as the product, in this case, the games digital, are developed for the comfort of the male audience, using the hypersexualization of women as an instrument of propaganda.

This being said, it showed how hypersexualization causes the amplification of an environment that has not been made as welcoming to the female audience, as well as it presents consent to sexual harassment to be committed against female players exposed to this unregulated scenario.

Finally, the research in question showed how the movements performed by private individuals, such as the actions that have been taken by female players, alongside with a regulatory policy that change/improve the laws on gender equality, especially

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<sup>61</sup> SUNSTEIN, Cass R. Gender, caste, and law. In: NUSSBAUM, Martha C.; GLOVER, Jonathan. Women, culture, and development. Oxford University Press Inc., New York, 1995. p. 359.



those of international scope, may in the long run have effects to mitigate gender discrimination that occurs in the context of digital games.

### Tradução

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