


THE LEGAL PROTECTION OF PSYCHIC INTEGRITY IN THE DECISIONS OF THE FEDERAL SUPREME COURT: AN ANALYSIS OF ITS PROTECTION

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ABSTRACT

The present study aims to analyze the way in which the Federal Supreme Court (STF) recognizes and applies the legal protection of psychic integrity in the context of personality rights. Considering the absence of a consolidated normative definition, we seek to understand how this right has been interpreted in the jurisprudence of the Supreme Court, identifying the challenges for its consolidation as an autonomous concept in the Brazilian legal system. To this end, the deductive method was adopted, starting from the theoretical and normative foundation of personality rights for the specific analysis of psychic integrity in the judgments of the STF. As a research technique, content analysis was used, examining judgments selected from the official tool of jurisprudence of the STF, using the key expression "psychic integrity" and applying methodological filters to identify decisions in which this right figured as a central element of the legal foundation. The results indicate that, although the STF mentions psychic integrity in various contexts – such as the protection of human dignity, public security, prison conditions, and crimes against individual freedom – its application occurs in a fragmented way and without a unified legal concept. It was identified that the protection of psychic integrity is more robust in cases of gender violence and degrading incarceration but relativized in the face of the maintenance of public order. It is concluded that the absence of a clear normative definition compromises the uniformity of the protection of this right, making it necessary to have a greater doctrinal and legislative systematization to ensure its effectiveness in the Brazilian legal system.

Keywords: Jurisprudential analysis. Personality rights. Right to psychological integrity. Federal Supreme Court.

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INTRODUCTION

Among the various aspects of human individuality, psychic integrity emerges as an element of particular interest in the debate about the protection of personality rights, given its relationship with the dignity of the human person and the free development of the individual. The study of this law in the legal field has encountered conceptual and normative challenges since the construction of its protection involves multiple areas of legal knowledge, and its conceptualization requires an interdisciplinary understanding, often ignored by those who are responsible for judging its protection.

Among the sources of Law, jurisprudence has become a relevant space for the construction and application of personality rights, and it is essential to examine how the higher courts interpret and apply psychic integrity in concrete cases. The Federal Supreme Court (STF), as guardian of the Constitution, has a central role in defining fundamental rights and protecting the values inherent to human dignity. In different contexts, judicial decisions have mentioned psychic integrity, sometimes as the basis of rights and guarantees, sometimes as an element of weighing against other constitutional principles. The way in which this legal category has been used can provide elements for understanding its scope and relevance in the legal system.

In the normative field, the protection of psychic integrity is part of the broader debate on personality rights and the legal protection of the physical and emotional dimensions of the individual. The recognition of psychic integrity can occur in different spheres of law, varying according to the nature of the legal relationships involved and the legal assets protected. Thus, analyzing its application in the judgments of the STF can contribute to the systematization of its understanding and the evaluation of possible challenges in the consolidation of a uniform legal concept and collaborate in the legal certainty of the system.

From this perspective, the present research seeks to answer the following question: How has psychic integrity been understood and applied by the Federal Supreme Court in the protection of fundamental rights and personality, and what are the challenges for its consolidation as an autonomous legal concept in the Brazilian legal system? To answer this question, STF judgments that mention "psychic integrity" will be analyzed, investigating the legal basis used, the possible variations in its interpretation, and its relevance in the construction of judicial decisions that involve the protection of such rights.

The general objective that is intended to be achieved is to critically analyze the jurisprudence of the STF regarding psychic integrity, seeking to identify the argumentative

patterns and the main controversies on the subject. As specific objectives, it is intended: (i) to examine the normative provisions that underlie the protection of psychic integrity in the Brazilian and international legal system; (ii) map and systematize the main STF precedents that address the subject; (iii) to verify under what circumstances psychic integrity has been recognized as an autonomous legal asset and when it is relativized in the face of other principles; and (iv) to propose a critical reflection on the need to positivize the concept of psychic integrity and its impacts on the effectiveness of fundamental rights.

To achieve these objectives, the study will adopt a deductive approach, starting from general concepts about fundamental rights and protection of personality to analyze, in a specific way, the way in which psychic integrity has been applied by the STF. The methodological procedure adopted will be the analysis of content, based on the interpretation of selected judgments of the Federal Supreme Court, using as a criterion the relevance of the cases to the object of study. In addition, the research will include a bibliographic and narrative review, covering the analysis of books, scientific articles, and theses that deal with psychic integrity and personality rights. This approach will allow the doctrinal understanding of the subject, providing theoretical subsidies for the interpretation of judicial decisions.

The methodology used will allow not only to understand how psychic integrity has been used as a legal argument but also to identify possible gaps and inconsistencies in the treatment of the theme. The documentary analysis of the judgments will make it possible to categorize the decisions, allowing to verify if there is a pattern in the STF's argumentation or if psychic integrity is applied in a fragmented way and without uniform criteria. The methodological review, in turn, will contribute to the identification of possible normative and doctrinal elements that can support the construction of a more structured legal concept.

The relevance of the research is justified by the need to broaden the understanding of psychic integrity in the legal context, given its direct impact on the protection of the dignity of the human person. In a scenario of increasing judicialization of social relations and consolidation of personality rights, understanding how higher courts interpret and apply psychic integrity is essential to ensure the effectiveness of fundamental rights. The absence of a consolidated normative concept can generate legal uncertainty, hindering the uniform application of the law and compromising the protection of individuals in situations of psychic vulnerability.

In addition, the research is part of a broader context of debates on the protection of personality rights in contemporary times, especially in the face of new forms of psychic vulnerability that arise as a result of hyperconnectivity, psychological manipulation, and digital violence. The lack of clear normative parameters for the protection of psychic integrity can compromise the adaptation of the Law to the new social realities, making the need for reflection and systematization of the matter urgent.

Finally, it is expected that the research will contribute to the advancement of the academic and jurisprudential debate on psychic integrity, providing subsidies for the construction of a more solid theoretical and normative framework. From the analysis of the jurisprudence and the bibliographic review, it is intended to offer reflections that can help both the doctrinal development and the grounds for future judicial decisions. Thus, the investigation seeks not only to understand how psychic integrity is applied in judicial practice but also to stimulate the improvement of the protection of this right in the Brazilian legal system.

METHODOLOGICAL DESIGN OF THE RESEARCH

This chapter aims to present the methodology adopted to conduct the research, describing the procedures used in the analysis of the right to psychic integrity in the Brazilian legal system and its protection by the Federal Supreme Court (STF). The detailed exposition of the methodology helps not only in the organization of the investigative path, allowing the clear structuring of the research objectives, but also offers the reader a transparent view of the criteria adopted in the selection and analysis of the data. The choice of a specific chapter for the methodology is justified by the need to highlight relevant aspects, such as the evaluation criteria of the STF rulings, the time frame adopted, and the search filters applied in the jurisprudential survey.

The method consists of a set of "systematic and rational activities that, with greater security and economy, allows achieving the objective of producing valid and true knowledge, tracing the path to be followed, detecting errors and assisting the scientist's decisions" (Marconi and Lakatos 2017, p. 91). In this context, the method of approach adopted in the research is deductive, which starts from general premises for the analysis of concrete cases, seeking to verify the application of normative and doctrinal principles in the judgments of the STF on the right to psychic integrity. The research also uses content

analysis as a technique to interpret judicial decisions, allowing the identification of argumentative patterns and trends in the application of this fundamental right.

It is noteworthy that the option for the deductive method in the rest of the work was because it consists of starting from a consolidated theoretical and normative framework to later examine how it manifests itself in concrete cases. Luciana C. Souza (2020, p. 69) explains that the deductive method is based on the proposition of a previous theoretical explanation, whose validity can be evidenced both through abstract models and through the investigation of empirical elements. In his words, "to deduce is to produce knowledge by proposing a theoretical explanation, whose validity can be evidenced either by abstract models or by an investigation into reality".

Thus, the deductive method is applied when examining, initially, the theoretical and normative foundation of the right to psychic integrity in Brazil. The analysis starts from the constitutional and infra-constitutional provisions that protect this right, as well as from the specialized doctrine, and then evaluates how these concepts are used in the jurisprudential practice of the STF. This methodological path makes it possible to identify convergences and divergences between the theoretical-normative framework and judicial interpretation, contributing to the understanding of the effectiveness of the protection of the right to psychic integrity in the highest court in the country.

The research adopts bibliographic, documentary, and empirical methodological procedures. Bibliographic research is essential to review the academic literature on the right to psychic integrity and personality rights, and is composed of books, scientific articles, dissertations, and theses on the subject. The documentary research, in turn, covers the analysis of rulings of the Federal Supreme Court, which serve as the main source of data to assess how the right to psychic integrity has been protected in practice. Finally, the empirical research consists of the qualitative analysis of selected judicial decisions to identify argumentative patterns, omissions, and interpretative approaches that evidence the current stage of legal protection of psychic integrity in Brazil.

In addition, the research adopts content analysis as a technique for interpreting the decisions of the STF. Laurence Bardin (2016, p. 51) defines content analysis as a systematic method that seeks to extract, in a qualitative and quantitative way, relevant information from texts, allowing a deeper interpretation of the meanings underlying judicial decisions. This technique makes it possible to identify argumentative patterns, recurrence

of grounds, and possible variations in the application of the right to psychic integrity by the STF.

The application of content analysis occurs from the survey of STF rulings through the "Jurisprudence Search" tool available on the court's official website. Filters were applied that restricted the search to the keyword "right to mental integrity", considering only judgments published between October 5, 1988 (the Federal Constitution came into force) and February 27, 2025 (date of data collection). The objective criterion of the analysis included only decisions in which the right to mental integrity was the main object of the legal controversy, regardless of any conflicts with other rights, such as freedom of expression and the right to information.

In all, 21 rulings were found in the initial survey³, which were selected based on previously established objective and methodological criteria. For the search on the website, the keyword expression "psychic integrity" was used, with the following filters applied: (i) decisions rendered from October 5, 1988, the date of promulgation of the Federal Constitution, until October 21, 2024, when the survey was carried out; (ii) inclusion only of judgments, excluding monocratic decisions and administrative orders; and (iii) selection of judgments in which psychic integrity figured as a central element of the legal foundation, either as an autonomous right or in confrontation with other fundamental rights.

After applying these filters, a thorough screening of the identified decisions was carried out, analyzing both their summaries and the full content. The inclusion criterion established that only judgments in which psychic integrity was explicitly mentioned and debated on its merits would be considered for the analysis. Thus, only one judgment was identified that presented an explicit concept of psychic integrity, while the others mentioned the term in an accessory way, without conceptual deepening. The qualitative analysis of these decisions allowed us to evaluate the frequency with which psychic integrity is invoked, the legal foundations used by the STF ministers, the way in which the law is weighed against other fundamental rights, and the absence of a consolidated normative concept on the subject. These issues will be explored in the last topic of the development of this article, in which the main challenges for the consolidation of psychic integrity as an autonomous legal concept in the Brazilian legal system will be presented.

³ They are: ADI 5.995/RJ, ADI 6.138, ADPF 54/DF, EXT 1.434/DF, HC 70.389, HC 91.386, HC 104.410/RS, HC 107.701/RS, HC 123.533, HC 123.734/MG, HC 124.306/RJ, HC 129.936/SP, INQ 3.932/DF, RHC 50.255, RHC 55.240, RHC 117.129, RE 580.252/MS.

Thus, the combination of the deductive method with content analysis enables a structured investigation on the right to psychic integrity, starting from the theoretical-normative framework and advancing to the empirical observation of jurisprudence. This methodological path allows us to verify whether there is coherence in the application of the right to mental integrity in the STF and whether there are relevant variations in the interpretation of this right over time, contributing to the consolidation of a critical panorama of its effectiveness and protection in the Brazilian legal system.

THE LEGAL PROTECTION OF PSYCHIC INTEGRITY IN THE CONTEXT OF PERSONALITY RIGHTS

Psychic integrity refers to the preservation of the individual's mental and emotional health, covering aspects such as autonomy, freedom of thought, and protection from psychological harm. Although implicitly recognized in several norms, the absence of a consolidated normative definition presents significant challenges to their effective protection.

Personality rights are prerogatives inherent to the human being, intended to protect essential attributes of the person, such as life, physical and psychological integrity, honor, image, and privacy. In Brazil, these rights are based on the Federal Constitution of 1988, which ensures the inviolability of intimacy, private life, honor, and image of people, as well as on the Civil Code of 2002, which dedicates specific provisions to the protection of these rights. The concept of personality rights is deeply linked to the dignity of the human person, which has been increasingly invoked in the resolution of concrete cases. This is because the Federal Constitution enshrines dignity as a fundamental value, which guides other rights and serves as a parameter for the creation and application of the entire legal system, constituting itself as the reason for existence and foundation of the Democratic Rule of Law itself (Ramiro; Cassiano, 2025). However, psychic integrity, despite its importance, does not have a clear and specific definition in the current legislation.

In Brazilian Law, psychic integrity is recognized as an essential component of personality, encompassing the so-called psychic rights or rights of feelings. It is a right that ensures all people the protection of both physical and psychological integrity, indispensable elements for emotional balance and the full development of personality. Without this protection, it becomes unfeasible to guarantee the dignity of the human person, which

presupposes the free and autonomous development of the personality, which includes the preservation of psychic integrity (CASTRO, RAMIRO; TAMAOKI, 2023).

The absence of this conceptualization causes legal uncertainty and hinders the uniform application of this right in the courts. The Brazilian legal doctrine also lacks a theoretical depth on the subject, which contributes to the lack of objective parameters in the protection of the mental and emotional health of individuals. This conceptual gap can result in inconsistent court decisions and the undervaluation of psychic damage compared to physical damage. The World Health Organization (WHO) highlights mental health as an essential component of overall well-being. In this sense, the legal protection of psychic integrity is in line with international efforts to promote mental health and prevent psychological disorders. The incorporation of international guidelines can help in the construction of a more robust legal framework for the protection of psychic integrity in Brazil.

Postmodernity has brought with it new challenges for the protection of psychic integrity. Constant exposure to information, the fast pace of contemporary life, and virtual interactions can contribute to the increase in cases of stress, anxiety, and other mental health-related issues. These social changes require an adaptation of the legal system to contemplate the new forms of violation of psychic integrity and to offer effective protection mechanisms. The effectiveness of the legal protection of psychic integrity requires, therefore, a joint action between legislators, jurists, health professionals and society in general. It is necessary to promote debates, research, and initiatives aimed at building a clear normative concept and implementing measures that ensure the mental and emotional health of individuals. Only through a collective effort will it be possible to overcome contemporary challenges and ensure the full protection of psychic integrity in the context of personality rights.

Psychic integrity is widely recognized as an essential component of personality rights by several jurists. Carlos Alberto Bittar (1999) addresses psychic integrity as one of the fundamental rights inherent to the human person, alongside rights such as life, physical integrity, honor and intimacy. Bittar points out that the protection of psychic integrity is necessary to ensure the full development of the personality and dignity of the individual. Cristiano Chaves de Farias and Nelson Rosendal (2010), in their doctrinal contributions, also emphasize the relevance of psychic integrity in the context of personality rights. They argue that the protection of this right aims to guarantee the individual not only the absence

of mental illnesses, but also a state of psychological well-being, free from interference that may cause suffering or anguish.

This perspective broadens the understanding of psychic integrity, recognizing it as an autonomous right that deserves specific legal protection. Farias and Rosenvald (2010) emphasize that the protection of psychic integrity should encompass both the reparation of damages that have already occurred and the prevention of practices that may compromise the mental health of individuals. They point out that, in a context of rapid social and technological transformations, new forms of aggression against psychic integrity emerge, requiring the legal system to constantly update and adapt to effectively protect this right.

One of the proposals for the definition of psychic integrity understands it as the condition of balance and harmony of the human being in its psycho-emotional integrality, enabling the full and autonomous exercise of its cognitive and affective capacities. This conception goes beyond the notion of mental health understood only as the absence of disorders, also encompassing the preservation of an internal state of well-being and the ability to deal with life's adversities (Lessa; Ramiro, 2024).

The intersection between psychic integrity and other fundamental rights, such as privacy and honor, is another relevant aspect addressed by these jurists. Bittar points out that violations of psychic integrity are often associated with attacks on these rights, which reinforces the need for an integrated approach to the protection of human personality. For example, the undue exposure of a person's private life can generate significant psychic damage, affecting their honor and dignity. Farias and Rosenvald (2010) also discuss the importance of civil liability as an instrument for the protection of psychic integrity. They argue that the imposition of compensation for moral damages resulting from mental health aggressions serves not only as compensation for the victim, but also as a deterrent mechanism, discouraging harmful practices and promoting a culture of respect for personality rights.

The effectiveness of the legal protection of psychic integrity, according to these authors, depends on the awareness and sensitivity of legal operators. Bittar (1999) emphasizes that legal training should include an in-depth understanding of the importance of mental health, training professionals to identify and adequately treat violations of this fundamental right. In addition, it highlights the need for public policies that promote mental health and prevent practices that are harmful to psychic integrity.

The evolution of personality rights throughout the twentieth century consolidated the centrality of the dignity of the human person in private law, expanding the protection of off-balance sheet interests. Traditionally focused on the protection of contract and property, private law began to encompass rights related to personality, allowing for a more comprehensive protection for individuals. Gustavo Tepedino points out that, following the guidance of the Constitution, which establishes several extra-patrimonial duties in private relations, it seeks to ensure the realization of personality and the protection of the dignity of the human person (Tepedino, 2004).

Personality, therefore, has come to be understood not only as a formal legal attribute, but as a set of characteristics essential to the human being that must be safeguarded by the legal system. As Ingo Wolfgang Sarlet points out, the conception of human dignity, historically shaped by philosophical and political thought, has evolved from a hierarchical vision to a universal and egalitarian recognition, particularly influenced by the Christian tradition and Enlightenment natural law (Sarlet, 2007).

The absence of explicit protection of personality rights in the Civil Code of 1916, influenced by nineteenth-century thinking, contrasts with the approach of the Civil Code of 2002, which, in line with the 1988 Constitution, deals with personality rights in articles 11 to 20. The normative recognition of the legal personality of natural persons and its projection to legal entities has also raised doctrinal debates, since, as Tepedino observes, personality rights are intrinsically linked to the dignity of the human person and are not to be confused with the patrimonial protection of legal entities (Tepedino, 2004).

The discussion about the typicity or elasticity of personality rights reflects an essential dilemma of contemporary legal theory. While the theory of typicity argues that only the rights expressly provided for in the legal system, such as those of articles 11 to 20 of the Civil Code, can be recognized and protected, the pluralist theory argues that personality rights are projections of human dignity and, therefore, should not be limited to a closed list. Pietro Perlingieri, in defending the flexibility of these rights, argues that personality should not be understood as a specific right, but rather as a fundamental value that serves as a basis for a wide range of existential situations (Perlingiere, 2002). Thus, the protection of human dignity must expand to encompass new social realities, without the need for express positivization of each new hypothesis.

This interpretation is echoed in the work of Carlos Alberto Bittar, who classifies personality rights into physical, psychic and moral rights, arguing that legal protection must

accompany social transformations and technological advances (Bittar, 1999). Gustavo Tepedino (2006) argues that the idea of elasticity is not limited to a fragmented legal protection based on the prior typification of specific situations. In the face of technological advances and the growing complexity of human relations, it is essential that the law adapts to new forms of vulnerability, ensuring the protection of rights that, although not yet expressly typified, are equally essential for the safeguarding of the human personality.

In this context, the autonomy of the right to psychological integrity derives from the flexibility inherent to personality rights, allowing their violation to be recognized and repaired regardless of damage to other rights. The recognition of this right as autonomous does not imply an unrestricted adherence to the theory of typification, but rather the understanding that the protection of human dignity cannot be limited to previously defined categories. Orlando Gomes (1998), by establishing a classification of personality rights, differentiates those that guarantee physical integrity, such as the right to life and one's own body, from those aimed at protecting moral integrity, such as honor, image and name.

However, contemporary social transformations highlight the need for an independent recognition of psychic integrity as a protected legal good. Carlos Alberto da Mota Pinto (1996), when examining the protection of personality rights in the Portuguese Civil Code, observes that a broad formulation of these rights allows for the safeguarding of personal assets not expressly typified, protecting aspects of personality that become more evident as society evolves.

This perspective of continuous adaptation of legal protection is also shared by Elimar Szaniawski (1993) who criticizes the rigidity of the classification and defends a more flexible approach, capable of ensuring the preservation of human dignity. Thus, the malleability of legal protection enables the recognition of new personality rights, including psychic integrity, without the need for a specific normative provision, allowing the constant evolution of the legal system and the effectiveness of the protection of fundamental rights.

In view of the transformations in the recognition of personality rights and the expansion of legal protection to the dignity of the human person, psychic integrity has been increasingly considered an autonomous right, and not just an accessory or accidental element in the context of moral damage. The classical doctrine already pointed out the need to protect the psychic sphere of the person, as demonstrated by Pontes de Miranda (1971), when he stated that the right to psychic integrity imposes on everyone the duty not to cause damage to the psyche of others. In the same vein, Carlos Alberto Bittar (1989)

reinforces the importance of the "safety of the mind" and highlights that the preservation of mental health is essential for human dignity.

In a more recent approach, Pietro Perlingieri (2002) argues that psychic integrity constitutes an autonomous aspect of personality, comparable to physical integrity, and that its disposition cannot occur in an unrestricted way without a legitimate foundation. In this way, the protection of psychic integrity goes beyond simple reparation for emotional suffering, consolidating itself as an essential legal good, whose violation does not depend on the injury to other personality rights or patrimonial interests.

The defense of the autonomy of psychic integrity within personality rights is opposed to the traditional view, according to which pain would function only as a criterion for increasing compensation for moral damage. Héctor Valverde Santana (2009) clarifies, when addressing off-balance sheet reparation, that the sanction for moral damage is not limited to compensating the victim, but also has the purpose of punishing the offender and discouraging similar conduct. This understanding converges with the position of Wesley de Oliveira Louzada Bernardo (2005), for whom compensation should correspond to the extent of the damage, especially in cases where there is a direct offense to human dignity. Thus, psychic integrity must be recognized as a right whose violation cannot be reduced to a mere subjective compensatory criterion, but rather as an autonomous injury to the dignity of the human person, justifying its reparation independently.

Jurisprudence has followed this perspective, allowing the accumulation of compensation for material and moral damages arising from the same fact, as established by Precedent 37 of the Superior Court of Justice (STJ), reinforcing that the same event can simultaneously violate different personality rights.

The consolidation of psychic integrity as an autonomous right represents an advance in the protection of personality rights, reflecting the need for a more comprehensive recognition of the various forms of affectation that affect human beings. The traditional separation between physical integrity and moral integrity is no longer sufficient to encompass the complexity of the psychic experience, requiring a more in-depth legal focus on its protection. Elimar Szaniawski (1993) proposes the existence of a right to psychophysical integrity, aiming at a broader protection of the individual, although the majority doctrine still chooses to maintain the distinction between physical and psychic integrity. Regardless of these divergences, the recognition of psychic integrity as a fundamental right, in line with the principle of human dignity, contributes to the coherence

of the legal system, preventing mental health violations from being treated in a secondary or merely accessory way. Thus, its violation should be considered an autonomous legal fact, giving rise to compensation and specific protection, which strengthens a new paradigm in the protection of personality rights in Brazil.

In view of this panorama, the legal protection of psychic integrity is consolidated as an essential aspect of personality rights, requiring a clearer and more systematic approach from the legal system for its implementation. The recognition of this right in doctrine and jurisprudence indicates the need for a more structured normative treatment, capable of ensuring legal certainty and uniformity in the application of this concept in the courts. However, the absence of a consolidated conceptual framework still generates interpretative challenges and gaps in the protection of this fundamental right. In this context, the performance of the Federal Supreme Court (STF) assumes a decisive role in the interpretation and consolidation of psychic integrity as a protected legal good, and it is essential to analyze how this protection has been recognized and applied in the Court's decisions, which will be explored below.

THE RIGHT TO PSYCHIC INTEGRITY IN THE DECISIONS OF THE FEDERAL SUPREME COURT

Psychic integrity represents one of the most fundamental aspects of the human personality, and it is essential that its protection goes beyond the normative provision and finds support in other sources of law, in this case, jurisprudence. Its theoretical recognition would be of no use if there were no effective legal instruments to ensure its practical application. As the highest instance of the Brazilian judicial system, the Federal Supreme Court (STF) plays a central role both in the preservation of the Constitution and in the interpretation and consolidation of fundamental rights, establishing guidelines that guide national jurisprudence (Fazanaro, 2014).

The protection of psychic integrity can be submitted to the STF by different procedural means, whether original or appeal, requiring the ministers of the Supreme Court to carefully analyze the legal grounds involved. Considering that the dignity of the human person is a fundamental principle of the Federal Constitution of 1988, the protection of psychic integrity is part of the set of fundamental guarantees, giving it direct applicability. When this protection is not ensured by the lower courts, it becomes necessary to appeal to the highest instance of the Judiciary for the violation to be recognized and remedied. As

Rodrigues (1994) points out, when fundamental rights are not spontaneously respected, recourse to the Judiciary becomes essential for their effectiveness. In this way, the STF assumes an important role in the realization of the legal protection of psychic integrity, ensuring that its application does not remain only at the normative level.

The analysis of the STF's decisions on this topic followed specific criteria of jurisprudential research. The survey was carried out using the official jurisprudence tool of the Federal Supreme Court, using the key expression "psychic integrity" and applying filters that restricted the search to judgments published between October 5, 1988 and February 28, 2024. The time frame considered the beginning of the Federal Constitution and the date of the research. In addition, only decisions in which psychic integrity figured as a central element of the debate were selected, excluding cases in which its mention occurred in an accessory or secondary way.

The first stage of the research resulted in the identification of 21 judgments, which were submitted to a screening process to verify the relevance of the approach to psychic integrity. It was found that, in most of these decisions, the reference to the theme was made in a marginal way, without an in-depth conceptual or normative development. After a thorough analysis of the full texts of the judgments, it was found that only one decision presented an explicit definition of psychic integrity, while the others mentioned the term without a structured theoretical treatment.

As a result, of the 21 judgments found in the search carried out on the website of the Federal Supreme Court, 11 deal directly with psychic integrity as the central object of the decision, while the others mention the term in an accessory way or in tangential contexts. However, only one of these judgments presents a formulation that can be understood as a concept of psychic integrity, although not in a fully developed or systematized way, which can be analyzed below:

Table 1 - Analysis of judgments

Judgment Number	Legal Concept	Focus of Psychic Integrity	Treatment of Psychic Integrity
HC 124.306/RJ	No	Yes (center focus)	Protection of the mental health of pregnant women in the context of pregnancy interruption.
HC 107.701/RS	No	No (peripheral focus)	Guarantee of the rights of prisoners and visitors in an adequate prison environment.

ADI 6.138	No	No (peripheral focus)	Protection of women against domestic violence, justifying protective measures.
HC 129.936/SP	No	No (peripheral focus)	Maintenance of prison order and protection of those responsible for the custody of prisoners.
INQ 3.932/DF	No	No (peripheral focus)	Protection against speech that affects the honor and dignity of women.
HC 104.410/RS	No	No (peripheral focus)	Collective protection against potential risks of carrying weapons.
RE 580.252/MS	No	Yes (center focus)	Recognition of psychological damage suffered by inmates in degrading conditions.
ADI 5.995/RJ	No	No (peripheral focus)	Discussion on ethical and psychological impacts of animal experimentation.
HC 70.389	No	Yes (center focus)	Psychological effects of imprisonment in inhumane conditions.
EXT 1.434/DF	No	Yes (center focus)	Recognition of the psychological damage suffered by the victim of sexual violence.
ADPF 54/DF	No	Yes (center focus)	Protection of the mental health of pregnant women in the interruption of pregnancy of anencephalic fetuses.
HC 123.734/MG	No	Yes (center focus)	Impact of incarceration on the dignity and mental health of defendants.
HC 91.386	No	Yes (center focus)	Progression of the regime as a means of avoiding psychic deterioration of prisoners.
RHC 55.240	No	Yes (center focus)	Guarantee of public order and emotional safety of victims.
HC 123.533	No	Yes (center focus)	Impact of the sentence on the dignity and mental health of convicts.
RHC 50.255	No	Yes (center focus)	Emotional security of victims as a justification for preventive detention.
RHC 117.129	Yes	Yes (center focus)	Express recognition of psychic integrity as a legal asset protected in the crime of extortion.

Source: prepared by the authors (2025)

The analysis of the jurisprudence of the Federal Supreme Court shows that psychic integrity has been mentioned in different contexts, although often without an express technical definition. The court recognizes it as a fundamental right in several situations, especially with regard to the protection of human dignity, mental health, public safety, prison conditions and crimes against individual freedom. The recurrence of the theme in the judgments of the STF demonstrates the need for a theoretical and normative

deepening of its consolidation as an autonomous legal concept.

In the context of women's rights and the protection of mental health, the STF highlighted psychic integrity in judgments related to reproductive rights and gender-based violence. In HC 124.306/RJ, when discussing the criminalization of abortion in the first trimester, the court recognized that unwanted pregnancy impacts not only the physical integrity, but also the psychological integrity of the woman, reinforcing the right to autonomy and dignity. Likewise, in the judgment of ADPF 54/DF, which dealt with the interruption of pregnancy of anencephalic fetuses, the STF stated that imposing the continuity of an unviable pregnancy causes severe emotional suffering, constituting a violation of the psychic integrity of the pregnant woman. In the field of domestic violence, ADI 6,138 recognized that psychological aggression against women constitutes a threat to their psychic integrity, justifying the adoption of immediate protective measures to safeguard their mental and emotional health. In addition, INQ 3.932/DF reinforced that discourses that minimize or relativize sexual crimes can violate the psychological integrity of victims, by reinforcing discriminatory patterns and normalizing gender violence.

In trials involving the prison system, psychic integrity also appears as a fundamental right of inmates. In RE 580.252/MS, the STF stated that the State is responsible for ensuring the safety and physical and psychological well-being of prisoners, highlighting that overcrowding and degrading conditions in penitentiaries generate psychological damage that can be repaired. In HC 70.389, the court recognized that the mental suffering caused by the precariousness of the prison system may justify the granting of habeas corpus, while HC 123.734/MG and HC 123.533 warned of the impacts of mass imprisonment on the psychological integrity of inmates, emphasizing the need for proportional penalties and alternatives to incarceration. In addition, in HC 107.701/RS, the court addressed the psychic integrity of the prisoners' family members, recognizing that child visitation in a prison environment must be ensured in a way that does not compromise the emotional well-being of children.

Public security and the psychological effects of crime were also aspects considered by the STF when dealing with psychic integrity. In HC 129.936/SP, the court recognized that the violent escape of an inmate can affect the psychic integrity of prison officers, justifying its criminalization. In RHC 55.240 and RHC 50.255, the maintenance of pretrial detention was justified based on the need to avoid the psychological revictimization of the victims and the feeling of insecurity in society. In HC 91.386, the STF highlighted that the

full fulfillment of the sentence in a closed regime can generate negative criminogenic and psychological effects in inmates, affecting their dignity and rehabilitation. Also in this sense, HC 104.410/RS and HC 102.087/MG mentioned psychic integrity in the context of the criminalization of illegal possession of weapons, considering that the circulation of weapons can generate fear and insecurity in the population.

The protection of psychic integrity was also emphasized in the treatment of crimes against individual freedom. In RHC 117.129, the STF expressly conceptualized psychic integrity as a legal asset protected by the crime of extortion, highlighting that the psychological threat imposed on the victim already constitutes a violation of this right. In RHC 219.193/RJ, the court stressed that plea bargaining must be provided voluntarily, guaranteeing the psychological freedom of the whistleblower, without undue emotional pressure. This same concern with the preservation of mental health appears in EXT 1.434/DF, where the STF analyzed the irreversible psychological damage caused to the victim of child sexual violence, demonstrating the relevance of psychic integrity as a criterion for the application of criminal justice.

With regard to the protection of children and adolescents, ADI 2.404/DF dealt with the indicative classification of television programs as a measure aimed at preserving the psychic integrity of children and adolescents, preventing their early exposure to potentially harmful content. This approach reinforces the understanding that psychic integrity must be guaranteed from childhood, as an essential right to the healthy development and dignity of the human being.

The analysis of the decisions shows that, although the STF has not yet consolidated a unified legal concept of psychic integrity, the court recognizes it as a relevant legal asset and a fundamental right that must be protected in various situations. The judgments analyzed show that psychic integrity is directly linked to human dignity, mental health, public security and criminal justice, and is often invoked as a basis for decisions involving the protection of individual autonomy, the prevention of violence and the guarantee of adequate living conditions. The repeated recognition of this right in the jurisprudence of the STF reinforces the need to consolidate it more explicitly in the Brazilian legal system, contributing to the strengthening of the protection of mental health as an essential aspect of personality rights.

The comparative analysis of the judgments shows similarities and distancing in the way psychic integrity is treated by the Federal Supreme Court (STF). The approximations

can be observed in the recognized relevance of psychic integrity as a protected legal good, although many decisions do not present a formal definition of the term. The judges converge in recognizing that the violation of psychic integrity can occur both through direct violence, as in sexual crimes and extortion, and through institutional contexts, as in cases involving the dignity of prisoners and prison overcrowding. In several precedents, psychic integrity is associated with the dignity of the human person, justifying the granting of fundamental rights and guarantees.

However, there are significant distances in the way psychic integrity influences the final decision of the courts, especially with regard to the weighting with other constitutional principles. While in some cases the STF uses psychic integrity to support protective measures and recognize psychological damage, in other judgments the issue is not enough to rule out the application of stricter criminal rules, such as the rejection of habeas corpus requests or the maintenance of preventive detention. This distancing demonstrates that the weight attributed to psychic integrity varies according to the context of the concrete case, being widely recognized in topics such as domestic violence and degrading incarceration, but relativized when confronted with the need to guarantee public order and legal security.

Another relevant point of divergence concerns the positivity of the concept of psychic integrity in the judgments analyzed. While in some cases the term is explicitly mentioned as a protected legal good, in others its presence is only implicit, referring to psychological effects resulting from situations of vulnerability. The absence of a consolidated normative parameter generates differences in the arguments of the justices, who sometimes use psychic integrity as a determining criterion for granting the request, sometimes mention it in a secondary way, without it playing a decisive role in the outcome of the trial. Thus, although psychic integrity is a recurrent element in the jurisprudence of the STF, its application still lacks uniformity, depending on the matter discussed and the interaction with other constitutional principles.

The analysis of the judgments demonstrates that psychic integrity, although rarely conceptually defined by the higher courts, is often recognized as a protected legal asset in several areas of law. In the cases analyzed, psychological integrity was addressed in various contexts, including the protection of victims of violent crimes, the dignity of inmates in the prison system, the preservation of the mental health of pregnant women, and the safeguarding of public order. The omission of a clear definition does not prevent its

practical application, evidencing a jurisprudential evolution based on the protection of human dignity and the recognition of emotional and psychological impacts on judicial decisions. Thus, the concept of psychic integrity emerges as an implicit element in the foundation of fundamental rights, even though it lacks express positivity and a consolidated normative framework.

The analysis of the valid requests shows a tendency to protect psychic integrity in cases where there is a direct impact on the mental health of the victim or of the individual subject to the coercive power of the State. In cases of domestic violence, sexual crimes, and incarceration in degrading conditions, the courts emphasize the psychic effects of rights violations, consolidating psychological integrity as a criterion for granting protective measures, compensation, and review of sentences. On the other hand, in the judgments in which the request was considered unfounded, there is an argument centered on the need to maintain public order and preserve legal certainty, as in cases of preventive detention and punishment of property crimes. This distinction suggests that the recognition of psychic integrity in the judicial sphere is still conditioned to the consideration of other constitutional values, demonstrating a fragmented application of the concept.

Finally, the study reveals that, in cases where psychic integrity was explicitly mentioned as a protected legal good, there was a direct correlation with the criminalization of behaviors that impose psychological suffering on victims. The express recognition of psychic integrity in the crime of extortion, for example, demonstrates an advance in the legal treatment of psychic damage as an essential element in criminal classification. However, the absence of a uniform conceptual framework still hinders its systematic application, making it necessary to have a greater doctrinal and legislative delimitation to ensure its effective protection. Thus, the study of jurisprudence shows that the protection of psychic integrity is already a reality in Brazilian Law, although in a non-systematized way, reinforcing the need for its theorization and standardization to ensure legal certainty and decisional coherence.

FINAL CONSIDERATIONS

The research on the legal protection of psychic integrity in Brazil, with special attention to the jurisprudence of the Federal Supreme Court, highlights the relevance of this right in the context of personality rights. From the methodology adopted, which combined the deductive analysis of normative provisions and the interpretation of selected

judgments, it was possible to verify that, despite the absence of a consolidated normative concept, psychic integrity has been recognized and applied in different areas of Law. The literature review and documentary analysis showed that this recognition often occurs in a fragmented way, reflecting the lack of uniformity in the application of this right by the higher courts.

The deductive approach allowed us to start from the theoretical conception of fundamental rights and personality to analyze how psychic integrity has been protected in the judicial sphere. From the analysis of the STF's judgments, it was found that the invocation of this right occurs mainly in contexts related to human dignity, public security, protection of victims and prison conditions. However, the research also revealed that psychic integrity is not always used as the central basis of decisions, and is often mentioned in an accessory way or conditioned to the weighing of other constitutional principles.

The protection of psychic integrity faces significant challenges, both from a theoretical and practical point of view. The absence of an explicit normative framework makes it difficult to apply this right uniformly, generating legal uncertainty and inconsistencies in jurisprudence. While the legal doctrine recognizes its importance as an autonomous right, the courts have not yet consolidated a cohesive interpretation, oscillating between an incidental treatment and a more robust recognition of its relevance. This situation reinforces the need for a doctrinal and legislative systematization that allows for greater predictability and effectiveness to its protection.

The analysis of the STF's judgments showed that psychic integrity has been used as a relevant criterion to support protective measures in cases of domestic violence, sexual crimes and degrading incarceration. In these contexts, the courts recognized the psychological impacts as determining elements for the granting of fundamental rights and guarantees. On the other hand, in situations involving the maintenance of public order and the application of criminal sanctions, psychic integrity tends to be relativized, demonstrating that its effectiveness is still subject to circumstantial consideration within the legal system.

Jurisprudence also points to an evolution in the perception of psychic damage as a basis for civil liability. Precedent 37 of the STJ reinforces that the accumulation of compensation for moral and material damages is possible, which strengthens the notion that psychic damages should be treated as an autonomous offense to the dignity of the human person. This interpretation, in line with an expanded conception of personality

rights, reinforces the need to consider the emotional impacts of legal violations, going beyond the traditional separation between physical and moral damages.

The literature review demonstrated that there is a strong theoretical basis for the recognition of psychic integrity as a fundamental right. Authors such as Bittar, Tepedino and Perlingieri maintain that personality rights must accompany social transformations, ensuring dynamic and adaptable legal protection. This conception is essential to ensure that new forms of psychic vulnerability are contemplated by the legal system, especially in the face of the challenges imposed by the digital age, hyperconnectivity, and new forms of psychological manipulation.

The absence of a unified concept in the jurisprudence of the STF suggests that psychic integrity is still in the process of consolidation as an autonomous legal good. The fragmented treatment of this right demonstrates that there is room for legislative and doctrinal progress that allows for the establishment of clearer parameters for its protection. The construction of a more solid normative framework would contribute to ensuring greater consistency in judicial decisions, reducing the margin of discretion in their application and ensuring more effective protection for the mental health of individuals.

In view of this scenario, it is essential to deepen the debate on the positivity of psychic integrity as an express fundamental right. The absence of an explicit normative framework can compromise the protection of this right, making it difficult to repair damages and adopt effective preventive measures. The systematization of jurisprudence, combined with the formulation of clearer normative guidelines, can contribute to strengthening the protection of this right in the Brazilian legal system, ensuring greater legal certainty and effectiveness in its application.

Finally, the research demonstrated that psychic integrity is already a reality in judicial practice, although its application still lacks uniformity and normative consolidation. The recognition of this right as an essential component of human dignity and personality rights represents a significant advance in the protection of mental health in Brazil. However, for this protection to be full and effective, it is necessary a joint effort by the doctrine, the legislator and the courts in the construction of a more structured legal concept, capable of ensuring the adequate protection of psychic integrity in all its dimensions.

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