# Violent deaths and the path to judicialization of LGBTphobia in Brazil: The (non) guarantee of protection of rights

**Leandro Beiragrande da Costa, Yuri Bindá Leite, André Luiz Machado das Neves, Eduardo Barbosa de Menezes Guimarães**
Universidade do Estado do Amazonas
Brazil

## Abstract

*This exploratory research was based on bibliographic and documentary sources and aimed to address the performance of the three branches regarding the criminalization of LGBTphobia. These people are stigmatized because of their sexual orientation and gender identity, since they differ from the heteronormativity still prevailing in society, which has led them to suffer more and more different types of violence, including physical, sexual, emotional, and psychological aggressions, to which they are constantly subjected. The lack of official data, beforehand, shows the real neglect of the public authority towards the rights and guarantees of this minority, in addition to the lack of effective public policies and non-investigation and non-judgment of crimes commonly poignant, which reveal true state violence. It was found that few actions by the executive branch go beyond the planning stage and that the endless discussions by the legislative can be described as true inertia, resulting in numerous quarrels in the judiciary branch, in which the LGBT community has achieved progress in denouncing human rights violations and in the relentless search for overcoming discrimination.*

**Keywords:** Gender. Violence. Sexuality. Judicialization.

## 1. Introduction

The Inter-American Commission on Human Rights (IACHR), when addressing violence against lesbian, gay, bisexual, transvestite and transgender people (LGBT), stated that "a person's sexual orientation is independent of the sex assigned to him/her at birth and independent of his/her gender identity" (IACHR, 2015, p. 31). The Commission also validated the following definitions addressed in the Yogyakarta Principles, which are a set of principles that guide the application of the international human rights law regarding sexual orientation and gender identity:

> **Sexual orientation** is defined as "the ability of each person to feel a deeply emotional, affective, and sexual attraction to people of a different gender, or of the same gender, or more than one gender, as well as the ability to maintain intimate and sexual relationships with these people". (...) **gender identity** is "the internal and individual experience of gender as deeply felt by each person, which may or may not correspond to the sex assigned at birth, including the personal experience of the body (which may involve changes in body

> appearance or function through medical, surgical or other means, as long as this is decided by the person) and other gender expressions, including dress, way of speaking, and conduct" (IACHR, 2015, p. 32 – **boldface added**).

However, although sexual diversity is recognized in official documents, it is observed that cultural, social, and historical aspects make the free expression of sexuality and gender unfeasible.

Borrilo (2010) mentions that the division of genders (male/female) and sexual desire (hetero/homo) serve to reproduce the social order based on a model of sexist (subordination between sexes) and heterosexist (hierarchy of sexualities) normality, and homophobia has the power to protect these borders. For this reason, homosexuals are no longer the only victims of homophobic violence, as it also affects people who perform genders seen as deviant.

This violence can be seen from the report data of the Gay Group of Bahia (GGB), which shows that 329 LGBT people were victims of violent deaths in Brazil, in 2019, accounting for 174 gays (52.8%), 118 transvestites and transsexuals (35.8%), 32 lesbians (9.7%). and 5 bisexuals (1.5%) (GGB, 2019).

Therefore, homophobia can be defined as a set of prejudiced, discriminatory and violent actions, based on hatred, justified by "fear, aversion, or irrational hatred towards homosexuals, and, by extension, towards all those who manifest sexual orientation or gender identity different from heteronormative patterns" (ABGLT, 2015, p. 21).

Among the characteristics of violence against LGBT people, the IACHR (2015, p. 37-40) points out the aggressor's desire to punish people who have attitudes he/she considers as deviant from the 'traditional' ones, aiming at 'public moral' maintenance. This can be observed from the following aspects: (1) the vulnerability of transsexual and transvestite women, who are excluded early from social life and, in their majority, murdered before 35 years old; (2) subjection to cruel and inhuman treatment, typical of torture, which 'punishes' through acts of sexual violence and seeks to dehumanize the victim; (3) violence resulting from hints of a sexual nature, which, in a heterosexual environment, would be acceptable as flirtation, but for the homosexual reality causes disgust that justifies the 'gay or trans panic' action; (4) categorization of violence as a way to promote 'social cleansing'; and (5) in certain contexts, acts of discrimination or violence motivated by prejudice toward LGBT people are related to the perception of the person by the aggressor.

Faced with this panorama, this study aimed to demonstrate the absence of the state, both concerning the recognition of these rights holders and the incipience of inclusive public policies in making perpetrators responsible for acts of discrimination, hatred speeches, and crimes against life.

## 2. The confrontation of violence against the LGBT population and the actions of the three branches

### *2.1 National Human Rights Program of the federal government*

There were two World Conferences on Human Rights. The first one was held in Tehran, Iran, in 1968, with the participation of 68 countries, and the second one in Vienna, Austria, accounting for 171 countries. According to Cançado Trindade,

> Both represent, in addition to global assessments of the matter evolution, decisive steps in the construction of a universal culture of human rights. The Tehran Conference resulted in the strengthening of the universality of human rights, especially by the emphatic assertion of their indivisibility. After the Vienna Conference, it was recognized that the subject under consideration concerns all human beings and permeates all spheres of human activity (CANÇADO TRINDADE, 1997, p. 178).

Nevertheless, it was at the second Conference that was expressly recommended (item 71 of the Vienna Declaration and Program of Action) the elaboration of a national action plan, "identifying measures, through which the State in question can better promote and protect the human rights" (ONU, 1993).

In this sense, on May 13, 1996, under President Fernando Henrique Cardoso, the Federal Government instituted the National Human Rights Program (PNDH), which affirms (Art. 1) that it is a "diagnosis of the situation of these rights in the country and measures for their defense and promotion, as in the Annex to this Decree" (BRASIL, 1996). However, discrimination based on sexual orientation was mentioned on only one occasion when dealing with a forecast, in the section on the "Proposals for Government Actions", specifically regarding "Human Rights, everybody's Rights", for the government to propose legislation prohibiting all types of discrimination and revoking existing discriminatory rules, in a short term (BRASIL, 1996, p. 20).

Six years later, in the last biennium of his second term, FHC launched a revised and improved version of the program, known as PNDH-2 (BRASIL, 2002), which included several recommendations from the IV National Conference on Human Rights, showing greater concern over LGBT people, after protests in relation to the previous version, regarding sexual orientation, equality, awareness, health, and work:

> 114. **Propose an amendment to the Federal Constitution to include the guarantee of the right to free sexual orientation and the prohibition of discrimination based on sexual orientation.** 115. Support the regulation of registered civil partnership between people of the same sex and the regulation of sex reassignment law and change of civil registration for transsexuals. 116. **Propose the penal legislation improvement regarding discrimination and violence motivated by sexual orientation.** 117. Exclude the term 'pederasty' from the Military Penal Code. **118. Include in the demographic censuses and official surveys data related to sexual orientation** (BRASIL, 2002, p. 8, **boldface added**).

The PNDH-3, published on December 21, 2009, in the penultimate year of the President Luiz Inácio Lula da Silva's second term, deepened and expanded the range of rights, in response to the numerous suggestions arising from popular participation in fifty Thematic Conferences held since 2003 (food security, education, health, racial equality, rights of women, children and adolescents, housing, environment, etc.) and to the conclusions of the XI National Conference on Human Rights (held in December 2008), preceded by an extensive consultative process through previous conferences ("Free

Conferences") and state and district conferences, which elected 1,200 delegates and nominated 800 observers and guests (Adorno, 2010, p. 13).

Much more detailed than the previous ones, the latter PNDH is structured in six guiding axes, subdivided into 25 guidelines, 82 strategic objectives, and 521 programmatic actions. With regard to the rights of the LGBT population, it was the most effective, although these rights have been distributed throughout the plan, the "Guideline 10: Guarantee of equality in diversity", "Guiding axes II: Development and Human Rights", and "Strategic objective V: Guarantee of respect for free sexual orientation and gender identity" stands out, comprising several actions, such as:

> a) Develop affirmative policies, which may promote a **culture of respect for free sexual orientation and gender identity**, favoring visibility, and social recognition. (...) d) Recognize and include in the public service information systems all family configurations constituted by lesbians, gays, bisexuals, transvestites, and transsexuals, based on the **deconstruction of heteronormativity**. (...) h) **Make a periodic monitoring report** on policies against discrimination toward the LGBT population, which includes, among other aspects, information on inclusion in the labor market, full-time health care, number of registered and investigated violations, recurrences of violations, and population, income, and marital data. (BRAZIL, 2009b, **boldface added**).

In this brief contextualization, it is observed that, over time, social mobilization, especially by organizations that felt excluded, contributed greatly to the improvement of programs that ensure (at least provided for in legislation) human rights.

However, it is worth mentioning that President Jair Messias Bolsonaro, at the end of his first year in office, revoked several decrees, wholly or partially, through Decree No. 10,087, of November 5, 2019, including Article 4 of the PNDH-3, which dealt with the plan's Monitoring Committee. This fact generated immediate national repercussion, leading the National Human Rights Council to issue Recommendation No. 27, of December 11, 2019, in order to request the readjustment of the Federal Government to the PNDH-3, the recreation of the Committee, support for the activities of human rights bodies, among other recommendations.

### *2.2. The criminalization of LGBTphobia in the National Congress: attempts to judicialize violence against LGBT*

To address the legislative scenario regarding the criminalization of LGBTphobia, it is necessary to make a brief analysis of Bill No. 5003/2001, presented on August 7, 2001, by Federal Deputy Iara Bernardi (PT/SP), whose central objective was to determine "sanctions against discriminatory practices based on people's sexual orientation", as established in the syllabus.

On April 26, 2005, the then rapporteur Federal Deputy Luciano Zica (PT/SP) issued his opinion in the Justice and Citizenship Constitution Commission (CCJC), not only on the project in question but also on five others that were attached to it during its processing, as they deal with correlated matters, as shown in Table 1:

| No. Bill (Date) – Author | Objective |
|---|---|
| Bill 5/2003 (2/18/2003) Iara Bernardi - PT/SP | Amends Law No. 7,716/89 and the Penal Code (art. 140, paragraph 3) to include punishment for discrimination or prejudice based on gender and sexual orientation |
| Bill 381/2003 (3/18/2003) Maurício Rabelo - Bill/TO | Amends Law No. 7,716/89 to include discrimination involving culture or cultural values as subject to legal punishment. |
| Bill 3143/2004 (3/16/2004) Laura Carneiro - PFL/RJ | Amends Law No. 7,716/89 to include crimes resulting from prejudice based on sex or sexual orientation. |
| Bill 3770/2004 (6/9/2004) Eduardo Valverde - PT/RO | Amends Law No. 8,213/91, 9,029/95, and 10,406/02 to promote and recognize sexual freedom of orientation, practice, manifestation, identity, and preference. |
| Bill 4243/2004 (10/7/2004) Edson Duarte - PV/BA | Amends Law No. 7,716/1989 to include the crime resulting from prejudice or discrimination based on sexual orientation. |

Table 1 - Law projects attached to Bill No 5003/2001

In his opinion, the above-mentioned rapporteur rejected Bill No. 381/2003, considering the inclusion of punishment for discrimination as of difficult penal typification because of the culture as being a new criminal type, and Bill No 4243/2004, which sought to make non-bailable crimes resulting from discrimination or prejudice against race, color, ethnicity, religion, national origin, and sexual orientation.

On the other hand, Bill No. 5003/2001 and those annexed to it (Bill 3770/2004, Bill 0005/2003, and Bill 3143/2004) were approved by the rapporteur, on the merits, since he understood it was fully possible to assimilate their purposes.

The Bill in question went through five years and four months in the Chamber of Deputies when its substitute was sent to the Federal Senate on December 7, 2006.

In the Federal Senate, Bill 5003/2001 was renumbered to Chamber's Bill No. 122/2006, whose rapporteur was Senator Fátima Cleide (PT/RO). This Bill was submitted to seven public audiences until being submitted to be analyzed by the Social Affairs Commission (CAS), in which, after seven other instruction audiences, had a favorable opinion, on November 10, 2009.

The approved Bill maintains the "criminalization of homophobia (sexual orientation and gender identity) and male chauvinism (gender and sex)", "typifies discrimination and prejudice against the condition of elderly or disabled people as a crime", and replaces the term *national provenance* with *origin*, so that, "in addition to criminalizing xenophobia, this proposition meets the demands of various internal segments, such as those that are discriminated against because of their northeastern origin, for example" (BRASIL, 2009a, p. 12 ).

On December 10, 2013, after five more public hearings in the Commission on Human Rights and Participatory Legislation (CDH), the rapporteur, Senator Paulo Paim (PT/RS), presented the third substitute for Chamber's Bill 122/2006, which was never approved, in order to meet desires of religious groups:

> We also expanded expressions to resolve fears associated with offensive attitudes towards religious spaces, so that not only temples but also religious events are protected and may

> reject practices with which they have a doctrinal disagreement. (...) he met the request of religious sectors so that homophobia controversy could be avoided. (...) we combined in a single Law all kinds of prejudice so that no one could say we had made a special Law for sexual orientation, i.e., all those discriminated against will be met (BRASIL, 2013, p. 4-7).

After heated discussions in public audiences and commission sessions, as well as the presentation of several amendments to the text, the project ended up being automatically archived at the end of the 54th Legislature, under the terms of §1, Art. 332 of the Internal Rules of the Federal Senate, on December 26, 2014, since it had been in process for two legislatures, i.e., after eight years of processing in that legislative chamber.

In short, the National Congress discussed the matter for more than thirteen years, holding nineteen public audiences, and, after hearing all sectors of society, archived the Chamber's Bill No. 122/2006.

Senator Weverton (PDT/MA) performed a new attempt to criminalize discrimination and prejudice related to gender identity or sexual orientation, through Bill No. 672/2019, on February 12, 2019, curiously the day before the Federal Supreme Court has definitively and jointly analyzed the Injunction Order (IO) No. 4733/DF and Direct Unconstitutionality Action for Omission (DUAO) No. 26.

*2.3 Criminalization of homotransphobia in the Supreme Court: judicial approval of violence against LGBT*

The Collective Injunction Warrant No. 4733 was filed on May 10, 2012, by the Brazilian Association of Gays, Lesbians, and Transgenders - ABGLT, seeking

> to obtain specific criminalization of all forms of homophobia and transphobia, especially (but not exclusively) offenses (individual and collective), homicides, aggressions, and discrimination based on sexual orientation and/or gender identity, real or supposed, of the victim, because this (specific criminalization) is an assumption inherent to the citizenship of the LGBT population today (BRASIL, 2013d, p. 1).

Urged to provide information, the Federal Senate (FS), the Chamber of Deputies (CD), the Federal General Advocacy (FGA), and the Attorney General's Office (AGO) have expressed, in short, that: (1) the judicial way chosen was not appropriate, as there is no prejudice to the exercise of the right, which is a requirement determined in Art. 5, item LXXI, of the Federal Constitution, since the crimes committed due to sexual orientation would already be covered by the existing criminal typifications; (2) it did not deal with normative omission, given that Bill No. 122/2006 was already under discussion in the Federal Senate; and (3) what was intended was the edition of a specific criminal norm that, in respect to the principle of the legal reserve (Art. 22, I, FC), the Supreme Federal Court should not regulate it, even if provisionally.

On October 23, 2013, the then rapporteur, Minister Ricardo Lewandowski, issued a Monocratic Decision without knowing the injunction order, with the extinction of the fact without judgment on the merits, and Regimental Appeal was interposed by the interested party, on November 1, 2013.

As a new manifestation was required, the AGO changed its initial position, on July 25, 2014, to say that,

> With regard to the merits of the question, homophobia and transphobia constitute a **serious violation of fundamental rights, to which urgent and emphatic response is required by Criminal Law.** To that extent, it is not possible to prevent the collegiate examination from a question of constitutional basis and with enormous social relevance and topicality. The regulatory appeal deserves to be provided. There is a clear absence of a regulatory norm (...). **Discrimination and prejudice** against lesbians, gays, bisexuals, transvestites, and transsexuals particularly affects certain people and groups, which **taint the principle of equality, and involves a special situation of serious** physical, psychological and social **vulnerability**, for violating the right to security, this principle consists of important citizenship prerogatives (BRASIL, 2014, p. 4, boldface added).

Minister Edson Fachin was appointed to be the new rapporteur, on June 16, 2015, and, on June 14, 2016, he reconsidered the monocratic decision to comply with the injunction order in the case in question. The AGO, in turn, reiterated its last opinion, on September 13, 2016.

After analyzing the admission of entities such as *amicus curiae*, the eminent rapporteur dismissed Eduardo Banks Association and admitted the Dignity Group for the citizenship of gays, lesbians, and transgenders, on September 26, 2016, and later admitted the Federal Council of Psychology, on October 3, 2016, as well as the Brazilian Institute of Family Law - IBDFAM, on October 31, 2018.

On November 12, 2018, the above-mentioned rapporteur decided to postpone the trial, which was scheduled for two days later, at the request of the plaintiff, which was approved in Plenary, on February 13, 2019, since it was wanted a joint assessment with the Direct Unconstitutionality Action by Omission No. 26, scheduled for June 13, 2019.

The rapporteur, Minister Edson Fachin, in his vote, considers MI 4733 as valid, recognizes the unconstitutional delay of the legislative branch and applies Law 7716/89 with prospective effects until the National Congress legislated on it. Among the allegations, it was highlighted the moment he mentioned that

> **Sexuality is a dimension inherent to the dignity of the human person.** (...) Thus, even if it involves criminal matters, it is not possible to claim that the injunction should be limited to the mere recognition of the delay. (...) In other words, equality is demanding us, as interpreters of the Constitution, **to recognize the equal offensiveness of discriminatory treatment**, either to dispel the claim that Jews would not be victims of racism or to tolerate the apology to the hatred and discrimination derived from the free expression of sexuality (BRASIL, 2019d, p. 24-26, boldface added).

The decision made by the Plenary followed, by the majority, the terms of the rapporteur, "defeating, to a lesser extent, Ministers Ricardo Lewandowski and Dias Toffoli (President), and Minister Marco Aurélio, who considered the mandatory approach inadequate." (BRASIL, 2019c).

Another action, the Direct Action of Unconstitutionality for Omission (DAUO) in question, was requested by the Popular Socialist Party (PPS), on December 19, 2013, through its lawyer, Mr. Paulo Roberto Iotti Vecchiatti (OAB/SP No. 242.668) who, in ninety-eight pages, supports the following thesis, as mentioned at the beginning of the petition itself:

> [We have here] pure and simple **institutional ill will of the Brazilian Parliament** toward the specific criminalization, in order to make evident the unconstitutional delay of the Legislative in this specific case and to make it equally evident, even if this requires the action of this Court in in its **counter-majoritarian function** imposing on the National Congress the specific criminalization of *offenses (individual and collective), aggression and discrimination based on sexual orientation and/or gender identity, real or supposed, of the victim* to ensure that **citizenship** is not made physically unfeasible and/or not made unfeasible the **fundamental rights** to security (efficient protection) and free sexual orientation and free gender identity, since we have here typical **oppression of the minority by the despotism of the majority** in the parliament that refuses to implement this absolutely **necessary and mandatory** specific criminalization, resulting from constitutional imposition [in order: Art. 5, XLI, XLII, or LIV – prohibition of deficient protection]. (BRASIL, 2013c, p. 1, boldface added)

On December 19, 2013, the process was submitted to the rapporteur, Minister Celso de Mello, who was responsible for analyzing several applications for admission of institutions such as *amicus curiae* throughout the process, rejecting only the Eduardo Banks Association, on May 27, 2014, and accepting many others, as observed below.

- The Gay Group of Bahia (GGB), the Brazilian Association of Lesbians, Gays, Bisexuals, Transvestites and Transsexuals (ABGLT), and the Group of Lawyers for Sexual Diversity (GADvS), on February 9, 2015.
- The National Association of Evangelical Jurists (ANAJURE), on March 5, 2015, the "Mixed" Parliamentary Front for Family and Support to Life, on September 16, 2015.;
- The Dignity Group for Citizenship of Gays, Lesbians, and Transgenders, on November 23, 2015;
- The Brazilian Convention of Evangelical Churches "Irmãos Menonitas" (COBIM), on February 17, 2016;
- The Federal Council of Psychology and the Unified Socialist Workers' Party (PSTU), on August 5, 2016;
- The National Association of Transvestites and Transsexuals (ANTRA), on September 25, 2017;

- The Public Defender's Office of the Federal District, on October 29, 2018.

The FS and the CD offered answers, respectively, on November 6 and 12, 2014, in which the latter legislative chamber presented a statement of only two paragraphs, limiting itself to saying that Bill No. 5.003/2001 was approved and forwarded to another chamber. On the other hand, the FS limited itself to address the non-necessity to create a new criminal type to criminalize LGBTphobia, as the crimes against this population would already be covered by Criminal Law. Such pieces were strongly rejected by the plaintiff, on January 13, 2015.

The AGO manifested itself for the validity of the request, on June 15, 2015, and, after the manifestation of several *amicus curiae*, on November 19, 2018, it determined the request inclusion on the agenda together with MI 4733/DF, and the trial was scheduled for February 13, 2019.

The rapporteur, Minister Celso de Mello, in his extensive vote, considered the DAUO 26 as valid, with general effectiveness and binding effect, and recognized the delay of the legislative when declaring the existence of unconstitutional normative omission, applying with prospective effects Law 7,716/89 until that the National Congress legislated in this respect, highlighting the item

> (d) interpreting according to the Constitution, because of the constitutional incrimination warrants registered in items XLI and XLII of Art. 5 of the Political Charter, **to classify homophobia and transphobia, whatever their form of manifestation, into the different criminal types defined in Law No. 7,716/89, until autonomous legislation, edited by the National Congress**, befalls due to considering, in the terms of this vote, that homotransphobic practices are qualified as a kind of racism, in the dimension of social racism enshrined by the Supreme Federal Court in the plenary trial of HC 82.424/RS (Ellwanger case), as such **behaviors matter in acts of segregation that make members of the LGBT group inferior,** due to their sexual orientation or gender identity, and also because such behaviors of homotransphobia fit the concept of acts of discrimination and offense toward fundamental rights and freedoms of those who included in the vulnerable group in question; (BRASIL, 2019b, p. 154-155, boldface added).

The Plenary Decision, on June 13, 2019, followed by the majority the terms of the rapporteur, defeating "Ministers Ricardo Lewandowski and Dias Toffoli (Presidente), who judged the action as partially valid, and Minister Marco Aurélio, who judged it as unfounded" (BRASIL, 2019a). The following thesis was established, also by the majority, since Minister Marco Aurélio did not subscribe to it, and Ministers Roberto Barroso and Alexandre de Moraes did not justifiably participate:

> 1. Until there is a law issued by the National Congress designed to implement the criminalization warrants defined in items XLI and XLII, Art. 5, of the Constitution of the Republic, **homophobic and transphobic behaviors**, real or supposed, which involve hateful aversion to someone's sexual orientation or gender identity, **as they refer to expressions of racism, understood in its social dimension, they fit by the identity of**

> **reason and through typical adaptation**, to the primary incrimination precepts defined in Law No. 7,716, of January 8, 1989, also constituting, in the hypothesis of intentional homicide, a circumstance that qualifies it, for configuring a nasty motive (Penal Code, Art. 121, § 2, I, "in fine");
>
> 2. The criminal repression against the practice of **homotransphobia does not reach, restrict or limit the exercise of religious freedom**, whatever the professed confessional denomination, ensuring its faithful and ministers (priests, pastors, rabbis, mullahs or Muslim clergy, and leaders or celebrants of Afro-Brazilian religions, among others) the right to preach and publicize, freely, by word, image or any other means, their thoughts and to express their convictions according to what is contained in their books and sacred codes, as well as teaching according to their doctrinal and/or theological orientation, being able to seek and win proselytes and practice acts of worship and the respective liturgy, regardless of the space, public or private, of their individual or collective performance, **as long as such manifestations do not constitute hate speech, such as those externalizations that incite discrimination, hostility or violence against people because of their sexual orientation or gender identity;**
>
> 3. **The concept of racism** understood in its social dimension, projects itself beyond strictly biological or phenotypic aspects, as it **results, as a manifestation of power, from the construction of a historical-cultural nature based on the objective of justifying inequality** and intended for ideological control, political domination, social subjugation, and denial of alterity, dignity, and humanity of those who, because they belong to a vulnerable group (LGBTI+) and do not belong to the state that holds a position of hegemony in a given social structure, are considered strange and different, degraded to the condition of marginals of the legal system, and are exposed, as a result of hateful inferiority and perverse stigmatization, to an unjust and harmful situation of exclusion from the general system of right protection, overruled by Minister Marco Aurélio, who did not subscribe to the proposed thesis (BRASIL, 2019a, p. 1-2, boldface added).

Faced with the silence of the legislators, the judges decided to equate crimes of homophobia and transphobia with racism crime, inscribed in Law No. 7716/1989, thus generating questions regarding the violation of the principles of legality, legal reserve, and separation of branches, since, for many scholars, the Judiciary, whose primary function is to apply the laws and give them the best interpretation, ended up innovating in criminal matters, without the necessary procedure.

The purpose of this article is not to justified or reject the validity of the decision issued by the Supreme Court, but cite juridical uproar demonstrates the complexity of the theme related to the criminalization of homotransphobia, so that, one year after the controversial decision to declare the legislative omission and supply it, the Congress has not yet legislated on it.

## 3. The (non) guarantee of protection of rights for LGBT people in Brazil

In this section, an effort will be made to expand the discussion on the effects of the judicialization of violence against LGBT, divided into two subsections. The first one named "theory" and the second one "practice".

### *3.1 In "theory": the existing legal and judicial protection*

A recent study, published by the International Association of Lesbians, Gays, Bisexuals, Trans and Intersex (ILGA) (MENDOS, 2019, p. 237), indicates that nine member countries of the United Nations (5%), contain in their Constitutions expressed clauses for protection against discrimination based on sexual orientation, among them only Bolivia (Art. 14, II) and Ecuador (Art. 11, II) in South America. In addition to these countries, the list also includes South Africa (Africa), Mexico (Central America), Nepal (Asia), Malta, Portugal and Sweden (Europe), and Fiji (Oceania).

With regard to legal protections, protection against discrimination in the workplace, criminal liability for crimes motivated by the victim's sexual orientation and the prohibition of hate speech, violence or discrimination based on sexual orientation, the number of members of the UN and its percentage, concerning the total, are fifty-two (27%), seventy-four (38%), forty-two (22%), and thirty-nine (20%), respectively (MENDOS, 2019, p. 241, 251, 265, 271).

It is noteworthy that Brazil, in none of these points mentioned, appears as a country that ensures and/or protects the rights of the LGBT population. However, although there is no protection in Federal law, six states have, in their Constitutions, an explicit prohibition for this type of discrimination: Alagoas (art. 2.1; 2001), Federal District (art. 2.5; 1993), Mato Grosso (art. 10.3; 1989), Pará (art. 3.4; 2007), Santa Catarina (art. 4.4; 2002), and Sergipe (art. 3.2; 1989). Moreover, about 70% of the Brazilian population lives in jurisdictions where local laws provide for some level of protection and administrative penalties against discrimination based on sexual orientation (MENDOS, 2019, p. 238, 242), such as in the case of Amazonas State, where Law No. 3079, of August 2, 2006, provides for the combat of discrimination based on sexual orientation, the application of the resulting penalties, and other measures.

Furthermore, Resolution No. 001/99, of March 22, 1999, of the Federal Council of Psychology, forbids (art. 3) its professionals to favor the pathologization of homoerotic behaviors or practices or coerce their clients into unrequested treatments. This normative act resisted when tested in Complaint No. 31,818/DF, "filed by the Federal Council of Psychology (CFP), on September 12, 2018, against a decision by the 14th Federal Court of the Judicial Section of the Federal District, which, when declaring the sentence in popular action No. 1011189-79.2017.4.01.3400" (BRASIL, 2019e, p. 2). In this action, on December 6, 2019, the rapporteur, Minister Carmen Lúcia, decided,

> The popular action No. 1011189-79.2017.4.01.3400 consists of **a true direct action of unconstitutionality filed in a feigned manner in an incompetent court**. It is not even a case of calling back a popular action for judgment in this Supreme Court since there is **no legitimacy of popular authors** to bring a direct action of unconstitutionality. (...) I consider valid the claim to **revoke the claimed decision** and to determine the completion

> and filing of the popular action when aggrieved the interlocutory appeal filed against the preliminary decision (BRASIL, 2019e, p. 19, boldface added).

Regarding the recognition of rights to the LGBT population, there is a significant role of the Brazilian Judiciary branch, confirming what Rifiotis (2015, p. 266) conceptualizes as judicialization of social relationships "the processes that are made visible through the expansion of the State action in areas of "social problems" as a mechanism for guaranteeing and promoting rights". Some cases are presented:

- Special Resource Superior Justice Tribunal (SJT) No. 889,852/RS [Minister-Rapporteur Luis Felipe Salomão] – Decision made on March 27, 2010: examined the specific case of the adoption of children by a partner who lived in same-sex union with another who had already adopted the same children. "The matter regarding the possibility of adopting minors by homosexual couples is necessarily linked to the need to verify what is the best solution for the protection of children's rights, as they are inseparable issues. (BRASIL, 2010, p. 1-2).
- Direct Action of Unconstitutionality No. 4277/DF (judged with ADPF No. 132/RJ) [Minister Ayres Brito] – Decision made on May 5, 2011: same rules and consequences for hetero and homoaffective stable union, with effective erga omnes and binding effect. "Family as a private institution that, voluntarily constituted of adults, maintains a necessary trichotomic relationship with the State and civil society. (...) equal subjective right to the formation of an autonomized family (BRASIL, 2011, p. 268).
- Resolution No. 175/2013 [National Council of Justice] – published on May 14, 2013: same-sex civil marriage. "Art. 1º - The competent authorities are forbidden to prohibit the qualification, celebration of civil marriage, or the conversion of the stable union into marriage, between people of the same sex" (BRASIL, 2013b).
- Extraordinary Resource SJT No. 846,102/PR [Minister-Rapporteur Cármen Lúcia] – Decision made on May 5, 2015: adoption by same-sex couples. "If same-sex unions are already recognized as a family entity, originating from an affective bond, deserving legal protection, there is no reason to limit adoption, creating obstacles does not provide for by the Law (BRASIL, 2015, p. 156-157).
- Direct Action of Unconstitutionality No. 4275/DF [Minister Marco Aurélio] – Decision made March 1, 2018: constitutes a fundamental subjective right to change the first name and gender classification in the civil registry of transgender people who declare themselves in this manner, in writing, "through administrative or judicial means, regardless of surgical procedure and third party reports, as this is a matter related to the fundamental right to the free development of personality." (BRASIL, 2018, p. 2).

The Brazilian Judiciary branch has become a kind of protector of the rights of those who, for having sex and gender different from the standard traditionally imposed and reproduced, are left at the margins of society, exposed to barbaric, atrocious and inhuman acts. Therefore, if these are inhumane acts, they affect the basis of all constitutional rights, the human dignity principle, thus legitimizing the Supreme

Court' role, which is the guardian and ensurer of the 1988 constitution, agreeing with the Inter-American Commission on Human Rights, which

> (...) considers that the recognition of the LGBTI people's rights is a fundamental factor to achieve equality, dignity, and non-discrimination, as well as to combat the violence against these people, aiming at building or reaching a more just society. (IACHR, 2018, p. 34, our translation).

*3.2 In "practice": the alarming numbers of violence*

The lack of official data, in itself, already constitutes a disregard for the affirmative policies of the LGBT population, disposed of by the PNUD (see section 2.1), and justifies the deficiencies in the protection of their rights, as addressed by the Inter-American Commission on Human Rights:

> 43. In the IACHR's opinion, the lack of effectiveness of several measures taken for States is mainly related to deficiencies in their conception, development, and implementation, as well as the lack of effective mechanisms for evaluation. This is because states do not have reliable qualitative and quantitative information that reflects the true dimension of discrimination suffered by LGBTI people in the hemisphere. (IACHR, 2018, p. 35, our translation).

The only data available on the official website of the Ministry of Women, Family and Human Rights, on violence against LGBT people, are based on complaints made by Dial 100 (Human Rights phone number). From the data obtained from complaints about violations to vulnerable groups (Table 2), it was possible to verify that the type of violation, related to institutional, physical, psychological and sexual violence, corresponded to 55% of complaints made on Dial 100, from 2011 to 2019. In addition, it is worth mentioning that, in this period, it was recorded the highest percentage (61%), in comparison with the total number of complaints (MMFDH, 2019, 2020).

| **Violation Type** | **2011** | **2012** | **2013** | **2014** | **2015** | **2016** | **2017** | **2018** | **2019** | **Period** |
|---|---|---|---|---|---|---|---|---|---|---|
| Total "violence" | 1431 | 3692 | 1992 | 1156 | 1243 | 1354 | 1656 | 1495 | 948 | 14967 |
| Grand Total | 2353 | 6136 | 3398 | 2143 | 2964 | 2907 | 2998 | 2879 | 1565 | 27343 |
| LGBT Percentage | 61% | 60% | 59% | 54% | 42% | 47% | 55% | 52% | 61% | 55% |

Table 1 – Denunciations of violence on Dial 100 and their representativeness compared to the total, per year.

Given the lack of official data, the Gay Group of Bahia (GGB) has an important role to fill this gap, since it publishes annually (under the coordination of Dr. Luiz Mott, its founder) reports of deaths of

homosexuals, based on news published by the media, information from victims' relatives and police records.

Figure 1 shows a comparative graph of violent deaths of LGBT, between 2011 and 2019, revealing a predominance of deaths of Gays, followed by Trans (GGB, 2011-2019).

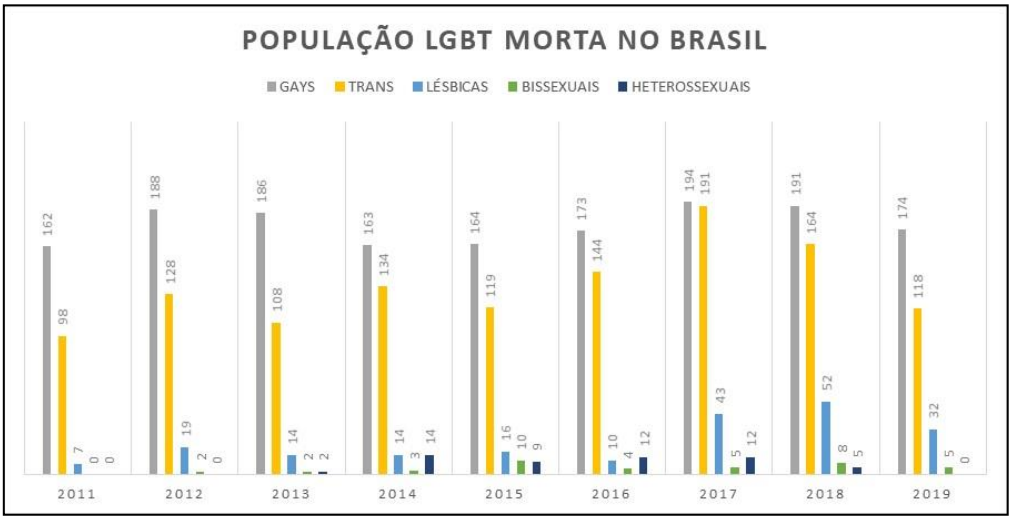


Figure 1 – Comparative graph of deaths of LGBT, per category, between 2011 and 2019

Table 3 shows that 2017 was the most lethal year for the group in question (445 deaths), followed by 2018 (420 deaths), and 2016 (343 deaths). During nine years, there were three thousand and ninety-nine violent deaths, resulting in an average of one violent death every 25 hours.

| | **2011** | **2012** | **2013** | **2014** | **2015** | **2016** | **2017** | **2018** | **2019** | **TOTAL** |
|---|---|---|---|---|---|---|---|---|---|---|
| Crime/h | 33 | 26 | 28 | 27 | 28 | 26 | 20 | 21 | 27 | 25 |
| TOTAL | 267 | 337 | 312 | 328 | 318 | 343 | 445 | 420 | 329 | 3099 |

Table 2 – Total death comparison and the crime/hour ratio, between 2011 and 2019

Regarding the decrease in the last two years, the 2019 Report shows there is not much to celebrate, because despite

> It is not the first time that in this historical series there has been a decrease in the number of deaths from one year to the next, with no reasonable forecast or sociological explanation. (...) [a] every 26 hours an LGBT+ is murdered or commits suicide as a victim of LGBTphobia, which indicates Brazil as the world champion in crimes against sexual minorities. According to international human rights agencies, far more homosexuals and transsexuals are killed in Brazil than in the 13 countries in the East and Africa, where there is the death penalty for such crime. (...) [It should also be noted] that the number of such deaths has increased uncontrollably in the last two decades: from 130 homicides on average, in 2000, to 260, in 2010, increasing to 398 in the last three years (GGB, 2019, p. 12-14).

## 4. Conclusion

This documentary research revealed that the executive branch when there was an apparently more "progressive" federal administration, at least formally, developed processes for the constitution of LGBT people as subjects of rights in Brazil. However, such purposes are not effective in practice, given the lack of specific public policies, since the LGBT agenda, since 2014, has been "emptied" in the last federal governments.

For its part, the legislative branch remained inert and silent even after thirteen years of dealing with the issue in both legislatures, refusing to answer to society in the face of the three thousand and ninety-nine murders, from 2001 to 2019. It is not the case of encouraging the proliferation of ineffective laws; however, a position was expected to guide a new path for the treatment of inequalities due to gender and sex, in the same way as it was performed for femicide. By keeping silent, the legislative branch consented to the violent deaths suffered by the LGBT population, or to the suicide of many who are unable to live with their internal and social conflicts. This issue, i.e., suicide among gays, lesbians, bisexuals and transsexual people, deserves a separate study, as it accounts for a significant number of deaths among young people.

It is worth mentioning that there was no easy way in the Judiciary, in which there were major discussions by sectors of society directly conflicting on the matter; however, unlike Congress, it manifested itself. This occurred in an affirmative sense to meet the desires of those who were interested in criminalizing LGBTphobic behaviors, as they involve hateful aversion to sexual orientation or the identity of someone who differs from heteronormativity, and because they correspond to expressions of racism in its social dimension.

In this sense, this paper was written, seeking to understand at what point the judicialization of social relationships can influence the decrease in the alarming numbers of violent LGBT deaths. Nevertheless, it was observed that the performance of the Judiciary, questioned by some people as exorbitant in their competences, is, in fact, the *ultimate ratio* for those who are trapped by the immobility of the Legislative and Executive branches in their main constitutional roles, which (does not) acting in this way, perpetuate numerous human rights violations.

Thus, it was concluded that the effort by LGBT movements, to criminalize acts of violence against people with any sexual orientation and/or gender identity, reveals the intention to give effectiveness to the fulfillment of their rights, since there is no progress in their recognition as subjects of right in other sectors of society, such as in education, which was involved by a dispute between religion and science.

## 5. References

ABGLT. **Manual de Comunicação LGBT**. UNAIDS: 2015. Disponível em: <https://unaids.org.br/wp-content/uploads/2015/09/Manual-de-Comunica%C3%A7%C3%A3o-LGBT.pdf>. Acesso em: 20 fev. 2020.

ADORNO, Sérgio. **História e desventura: o 3º Programa Nacional de Direitos Humanos**. São Paulo: Novos estudos – CEBRAP, ed. 86, v. 29, n. 1, mar. 2010, p. 5-20. Disponível em:

<http://novosestudos.uol.com.br/wp-content/uploads/2017/03/08_adorno_p4a21.pdf.zip>. Acesso em: 22 mai. 2020

BORRILLO, Daniel. Homofobia: história e crítica de um preconceito [tradução de Guilherme João de Freitas Teixeira]. Belo Horizonte: Autêntica Editora, 2010.

BRASIL. Câmara dos Deputados. **Projeto de Lei nº 5003/2001.** Determina sanções às práticas discriminatórias em razão da orientação sexual das pessoas. Brasília: 2001. Disponível em: <https://www.camara.leg.br/proposicoesWeb/fichadetramitacao?idProposicao=31842>. Acesso em: 12 fev. 2020.

BRASIL. Senado Federal. **Projeto de Lei da Câmara n.º 122, de 2006 (nº 5.003/2001, na Câmara dos Deputados)**. Brasília: 2006. Disponível em: < https://legis.senado.leg.br/sdleg-getter/documento?dm=3584077&ts=1571776974302&disposition=inline >. Acesso em: 12 fev. 2020.

____. **Parecer da Comissão de Assuntos Sociais, sobre o Projeto de Lei da Câmara n.º 122, de 2006**. Brasília: 2009a. Disponível em: <https://legis.senado.leg.br/sdleg-getter/documento?dm=3584104&ts=1571776975021&disposition=inline>. Acesso em: 12 fev. 2020.

____. **Parecer da Comissão de Direitos Humanos e Legislação Participativa, sobre o Projeto de Lei da Câmara n.º 122, de 2006**. Brasília: 2013a. Disponível em: <https://legis.senado.leg.br/sdleg-getter/documento?dm=3584210&ts=1571776976608&disposition=inline>. Acesso em: 12 fev. 2020.

BRASIL. Conselho Nacional de Justiça. **Resolução n.º 175, de 14 de maio de 2013**. Brasília: Brasília: 14 mai. 2013b. Disponível em: <https://atos.cnj.jus.br/files/resolucao_175_14052013_16052013105518.pdf>. Acesso em: 12 fev. 2020.

BRASIL. Presidência da República. **Constituição da República Federativa do Brasil.** Brasília: 1988. Disponível em: <http://www.planalto.gov.br/ccivil_03/constituicao/constituicao.htm>. Acesso em: 12 fev. 2020.

____. **Decreto Nº 1.904, de 13 de maio de 1996.** Institui o Programa Nacional de Direitos Humanos - PNDH. Brasília: 1996. Disponível em: <http://www.planalto.gov.br/ccivil_03/decreto/D1904.htm>. Acesso em: 12 fev. 2020.

____. **Decreto Nº 4.229, de 13 de maio de 2002.** Dispõe sobre o Programa Nacional de Direitos Humanos - PNDH, instituído pelo Decreto no 1.904, de 13 de maio de 1996, e dá outras providências. Brasília: 2002. Disponível em: <http://www.planalto.gov.br/ccivil_03/decreto/2002/D4229.htm>. Acesso em: 12 fev. 2020.

____. **Decreto Nº 7.037, de 21 de dezembro de 2009.** Aprova o Programa Nacional de Direitos Humanos - PNDH-3 e dá outras providências. Brasília: 2009b. Disponível em: <http://www.planalto.gov.br/ccivil_03/_Ato2007-2010/2009/Decreto/D7037.htm>. Acesso em: 12 fev. 2020.

____. **Lei Nº 7.716, de 5 de Janeiro de 1989**. Define os crimes resultantes de preconceito de raça ou de cor. Brasília: 1989. Disponível em: <http://www.planalto.gov.br/ccivil_03/leis/l7716.htm>. Acesso em: 12 fev. 2020.

BRASIL. Superior Tribunal de Justiça. **Recurso Especial nº 889.852/RS.** Decisório prolatado pelo Plenário. Brasília: 27 abr. 2010. Disponível em:

<https://ww2.stj.jus.br/processo/revista/documento/mediado/?componente=ITA&sequencial=966556&num_registro=200602091374&data=20100810&formato=PDF>. Acesso em: 12 fev. 2020.

BRASIL. Supremo Tribunal Federal. **Ação Direta de Inconstitucionalidade nº 4.275/DF.** Decisório prolatado pelo Plenário. Brasília: 1º mar. 2018. Disponível em: <http://redir.stf.jus.br/paginadorpub/paginador.jsp?docTP=TP&docID=749297200&prcID=2691371#>. Acesso em: 12 fev. 2020.

____. **Ação Direta de Inconstitucionalidade nº 4.277/DF.** Decisório prolatado pelo Plenário. Brasília: 5 mai. 2011. Disponível em: <http://redir.stf.jus.br/paginadorpub/paginador.jsp?docTP=TP&docID=1538528&prcID=11872#>. Acesso em: 12 fev. 2020.

____. **Ação Direta de Inconstitucionalidade por Omissão nº 26/DF.** Petição Inicial. Brasília: 2013c. Disponível em: <http://redir.stf.jus.br/paginadorpub/paginador.jsp?docTP=TP&docID=5086200&prcID=4515053&ad=s#>. Acesso em: 12 fev. 2020.

____. **Ação Direta de Inconstitucionalidade por Omissão nº 26/DF.** Decisório prolatado pelo Plenário. Brasília: 2019a. Disponível em: <https://www.migalhas.com.br/arquivos/2019/2/art20190221-01.pdf>. Acesso em: 12 fev. 2020.

____. **Ação Direta de Inconstitucionalidade por Omissão nº 26/DF.** Voto do Ministro-Relator Celso de Mello. Brasília: 2019b. Disponível em: <https://www.migalhas.com.br/arquivos/2019/2/art20190221-01.pdf>. Acesso em: 12 fev. 2020.

____. **Mandado de Injunção nº 4733/DF.** Decisão Monocrática. Relator: Ministro Ricardo Lewandowski. Brasília: 2013d. Disponível em: <https://portal.stf.jus.br/processos/downloadPeca.asp?id=180741204&ext=.pdf >. Acesso em: 12 fev. 2020.

____. **Mandado de Injunção nº 4733/DF.** Manifestação da Procuradoria-Geral da República. Brasília: 2014. Disponível em: <https://portal.stf.jus.br/processos/downloadPeca.asp?id=4923201&ext=.pdf>. Acesso em: 12 fev. 2020.

____. **Mandado de Injunção nº 4733/DF.** Decisório prolatado pelo Plenário. Brasília: 2019c. Disponível em: <https://portal.stf.jus.br/processos/downloadTexto.asp?id=4848011&ext=RTF>. Acesso em: 12 fev. 2020.

____. **Mandado de Injunção nº 4733/DF.** Voto do Ministro-Relator Edson Fachin. Brasília: 2019d. Disponível em: <https://www.conjur.com.br/dl/leia-voto-ministro-fachin1.pdf>. Acesso em: 12 fev. 2020.

____. **Reclamação nº 31.818/Df.** Decisão da Ministra-Relatora Cármen Lúcia. Brasília: 6 dez. 2019e. Disponível em: <http://portal.stf.jus.br/processos/downloadPeca.asp?id=15342078831&ext=.pdf>. Acesso em: 12 fev. 2020.

____. **Recurso Extraordinário nº 846.102/PR.** Decisão da Ministra-Relatora Cármen Lúcia. Brasília: 5 mar. 2015. Disponível em: <https://www.stf.jus.br/arquivo/djEletronico/DJE_20150317_052.pdf>. Acesso em: 12 fev. 2020.

CANÇADO TRINDADE, Antônio Augusto. **Tratado de Direito Internacional dos Direitos Humanos.** Porto Alegre: Sérgio Fabris Editor. 1997.

CARRARA, Sérgio. **Moralidades, racionalidades e políticas sexuais no Brasil contemporâneo**. Rio de Janeiro: Mana, ago. 2015, v. 21, n. 2, p. 323-345. Disponível em: <http://www.scielo.br/scielo.php?script=sci_arttext&pid=S0104-93132015000200323&lng=pt&nrm=iso>. Acesso em: 25 nov. 2019.

CAVALCANTI, Diego Rocha Medeiros**. O surgimento do conceito "corpo": implicações da modernidade e do individualismo**. Paraíba: CAOS – Revista Eletrônica de Ciências Sociais, n.9. set. 2005, p.53-60. Disponível em: <https://periodicos.ufpb.br/index.php/caos/article/view/46876/28299>. Acesso em: 12 jan. 2020.

CIDH. **Avances y desafíos hacia el reconocimiento de los derechos de las personas LGBTI en las Américas**. San José/Costa Rica: 7 dic. 2018. Disponível em: <http://www.oas.org/es/cidh/informes/pdfs/LGBTI-ReconocimientoDerechos2019.pdf>. Acesso em: 20 fev. 2020.

CIDH. **Violência contra pessoas lésbicas, gays, bissexuais, trans e intersexo nas Américas**. San José/Costa Rica: 12 nov. 2015. Disponível em: <http://www.oas.org/pt/cidh/docs/pdf/ViolenciaPessoasLGBTI.pdf>. Acesso em: 20 fev. 2020.

FREIRE, Lucas; CARDINALI, Daniel. **O ódio atrás das grades: da construção social da discriminação por orientação sexual à criminalização da homofobia.** Rio de Janeiro: Sexualidad, Salud y Sociedad – Revista Latinoamericana, n.12. dez. 2012, p.37-63. Disponível em: <http://www.scielo.br/pdf/sess/n12/03.pdf>. Acesso em: 21 fev. 2020.

GGB. Grupo Gay da Bahia. **Relatório de Mortes Violentas de LGBT+ no Brasil**. Salvador: Editora Grupo Gay da Bahia, 2011-2019. Disponível em: <https://grupogaydabahia.com.br/relatorios-anuais-de-morte-de-LGBTi/>. Acesso em: 24 abr. 2020

LOURO, Guacira Lopes. Pedagogias da sexualidade. In: LOURO, Guacira Lopes (Org). **O corpo educado: pedagogias da sexualidade**. Belo Horizonte: Autêntica Editora, 2000. p. 4-24. Disponível em: < http://www.scielo.br/pdf/cp/n109/n109a12.pdf>. Acesso em: 25 nov. 2019.

MENDOS, Lucas Ramón. **Homofobia de Estado 2019**. 13 ed. Genebra: Asociación Internacional de Lesbianas, Gays, Bisexuales, Trans e Intersex (ILGA), 2019. Disponível em: <https://ilga.org/downloads/ILGA_Homofobia_de_Estado_2019.pdf>. Acesso em: 20 fev. 2020.

MIRANDA, Francielle Felipe F. **Heteronormatividade: uma leitura sobre construção e implicações na publiciade**. Goiânia: Fragmentos de Cultura, v. 20, n. 1/2, jan./fev. 2010, p. 81-94. Disponível em: <http://www.oas.org/pt/cidh/docs/pdf/ViolenciaPessoasLGBTI.pdf>. Acesso em: 27 fev. 2020.

MMFDH. **Balanço anual sobre as violações contra a população LGBT – 2011 a 2018**. Brasília: 9 jan. 2019. Disponível em: <https://www.mdh.gov.br/todas-as-noticias/2019/junho/disque-100-registra-quase-tres-mil-violacoes-contra-a-populacao-LGBT>. Acesso em: 10 fev. 2020

____. **Balanço anual sobre as violações contra a população LGBT – 2019**. Brasília: 21 mai. 2020. Disponível em: < https://www.gov.br/mdh/pt-br/acesso-a-informacao/ouvidoria/Relatorio_Disque_100_2019_.pdf>. Acesso em: 23 mai. 2020

ONU. **Declaração e Programa de Ação de Viena**. Viena, Áustria: Conferência Mundial sobre Direitos Humanos, 25 jun. 1993. Disponível em: <http://www.direitoshumanos.usp.br/index.php/Sistema-Global.-

Declara%C3%A7%C3%B5es-e-Tratados-Internacionais-de-Prote%C3%A7%C3%A3o/declaracao-e-programa-de-acao-de-viena.html>. Acesso em: 23 mai. 2020.

RIFIOTIS, Theophilos. **Violência, Justiça e Direitos Humanos: reflexões sobre a judicialização das relações sociais no campo da "violência de gênero" *.** *Cad. Pagu* [online]. 2015, n.45, pp.261-295. Disponível em: < https://www.scielo.br/pdf/cpa/n45/0104-8333-cpa-45-00261.pdf>. Acesso em: 22 mai. 2020.

WEEKS, Jeffrey. O Corpo e a Sexualidade. In: LOURO, Guacira Lopes (Org). **O corpo educado: pedagogias da sexualidade**. Belo Horizonte: Autêntica Editora, 2000. p. 24-61. Disponível em: <http://www.scielo.br/pdf/cp/n109/n109a12.pdf>. Acesso em: 25 nov. 2019.