

“Slaying at the court”: research investigates the discourse about transvestites in Latin America courts

Geovana Benites / 5 de junho de 2023 / In English



Law | Research that won an honorable mention on the Capes Thesis Award seeks to understand which discourse patterns constitute the decisions about transvestites as subjects of law

*Image: Fabio Rodrigues Pozzebom/ Brazil Agency
*By Geovana Benites / September 22nd, 2022

Carried out on the Law Graduate Program at the Federal University of Rio Grande do Sul, the doctoral research carried out by the Alice Hertzog Resadori searched for the characteristics of discourses about transvestites in the decisions pronounced in courts of Latin American countries.

By means of keyword search, the researcher tried to identify which are the discursive formations that constitute court decisions and how they imply on the recognition or not of transvestite rights.

One of its conclusions was that most decisions are not indexed with the keyword “transvestite”, omission which indicates the invisibility of this identity in the courts.

Supervised by Professor Roberta Camineiro Baggio, the doctoral dissertation “Slaying at the courts: discourses on transvestites in constitutional courts of Latin America” received an honorable mention in the 2022 Capes Thesis Award.

Invisibility on the Judiciary

According to a report by the NGO Transgender Europe (TGEU), an organization that monitors data from LGBTQIA+ institutions in more than 70 countries around the world, Brazil continues to be the country with the highest rate of murders of transgender and transvestite people, higher than Mexico and the United States, respectively in second and third place.

Resadori’s master’s thesis analyzed court decisions on transvestites only in Brazil: the results showed that the majority were legal actions that used the term to stigmatize transvestites, and often the citation itself had no relation with the development of the process.

For her doctoral dissertation, she found that the recurrent use of the term *transsexual* in reference to *transvestites* is due to a greater acceptance of that term, what means that the judiciary often categorizes transvestites as transsexuals.

“I have concluded that this identity ends up being more “palatable”, because it is an identity related to medicalization, an idea of correction.

Transvestites are still seen on the margins of society,” explains the lawyer.

To carry out the analysis, 50 decisions of several Latin American courts with the word *transvestite* in the markers were found, as well as decisions that gained social repercussion in news, scientific articles and materials of social movements were also investigated to find processes that were not indexed with the term *transvestite*.

Alice then created analytical categories to characterize the decisions, and she has arrived at three discursive formations named by her: repressive conservatism, conservative inclusion, and affirmative recognition.

“I didn’t start from theoretical categories to analyze the decisions, I looked at them and read what they said, what categories they showed that could be produced. This was a really difficult process, but super cool and super interesting to be able to explore the decisions,” says the researcher.

Seeking Affirmative Recognition

‘Repressive conservatism’ and ‘conservative inclusion’ are categories constituted by statements that include binary, cisnormative, and heteronormative discourses and strategies, mainly put in place to stigmatize transvestites.

“I call these statements conservative because they not only display transvestites as object but they also contribute to keep them in an objectifying position,” she highlights.

This also collaborates to constitute transvestites as abnormal, naturalizing and reinforcing the binary code of gender and sexuality that places them on the margins of society.

What differentiates conservative statements is that the discursive formation of repressive conservatism is triggered to repress any gender expression that cannot be read within binary norms, acting as a blockade for the rights of the transvestites.

In the conservative inclusion, the rights related to the gender identity of transvestites and transgender people are recognized, but their inclusion in this field depends on the establishment of a greater or lesser adequacy of these people to codes that try to place them as abnormal.

As Alice explains, “you can access your rights provided you are within the norm – the more aligned with the norm a transvestite is, the more rights this transvestite will have. Sliding out of the norm means having less access to rights”.

The third discursive formation found, called ‘affirmative recognition’, consists of statements that acknowledge the autonomy of transvestites so that they can freely develop their personalities.

The discourses of these statements are produced based on social sciences, gender and sexuality studies and through movements that fight in favor of these people, as well as by the transvestites themselves.

The decisions that had affirmative recognition as a characteristic, represented transvestites as people who do not need to conform to any model to access their rights.

“To have access to rights, they don’t need to conform to a certain model. They can say how they identify and who they are.

Affirmative recognition sees transvestites as subjects of rights regardless of the adoption of a pathologizing discourse or whether they in a way identify with a binary gender norm.”

— Alice Hertzog Resadori

Where there is power, there is resistance

Another important research result is the identification of the role played by transvestites in the fight for their rights – assuming they are worthy of such rights.

They are part of decision-making and are present in the constant negotiation of what is produced about them.

“The resistance resides in the refusal to conform to the *status quo* and in the determination to address the judiciary confidently: ‘Hi judiciary, I am a transvestite and, as such, I want my rights to be recognized in the decisions,’” adds Alice.

The researcher points out that resistance is against a model of colonial subject and against the erasure of transvestites, since the judiciary does not seem comfortable with the word *transvestite*, which led to the frequent use of the term *transsexual*.

“The Brazilian judiciary adopted the transgender category – which is an imported category, not used here in Brazil or in Latin America, that is based on a gender perspective that is different from ours – as a cleaner category, which would include the transvestite with no need to openly mention the word *transvestite*.”

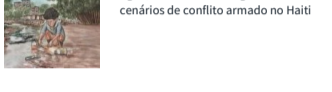
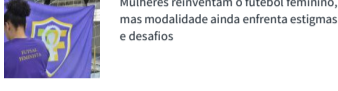
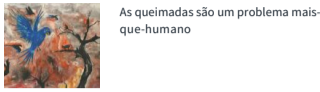
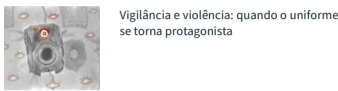
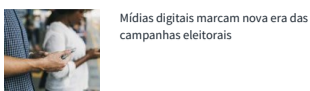
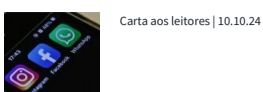
According to the researcher, the resistance is also a bit against this category and this attempt to clean up and make the transvestites’ identity invisible.

Translated into English by **Bruna Rodrigues Justino**, undergraduate student enrolled in the course “Supervised Translation Training II (English)” of the Undergraduate Program in Language and Literature, under the supervision and translation revision of Professor Elizamari R. Becker (P.h.D.).

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