

# The Criminalization of “Gender Ideology”: An Analysis of the Sexual Diversity Debate in the Brazilian Chamber of Deputies, 2015\*

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## Abstract

The present article analyses the debate regarding sexual diversity which took place in the Brazilian Chamber of Deputies in 2015, looking at speeches and bills retrieved through the Chamber of Deputies' web portal. The main results we recovered were: speeches against the LGBT Pride Parade in São Paulo; propositions against two resolutions issued by the Human Rights Secretariat regarding institutional acknowledgement of gender identity; and bills against the inclusion of “gender ideology” in the National Plan of Education. We discuss the content of the debates and the arguments employed in these. We also socially situate the authors of these speeches and bills. Finally, we discuss the fact that the leaders of these debates were congressional representatives with strong religious identities.

**Keywords:** Gender Ideology, Sexual Diversity, Chamber of Deputies, Conservatism, Religious Congressional Representatives.

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The present article is the fruit of research conducted on the Brazilian Chamber of Deputies web portal. It seeks to analyze the terms employed in the debate regarding sexual diversity in 2015 by looking at the speeches made in Congress and the legislative proposals that were submitted in that year.<sup>1</sup> It is an exploratory study of the theme that seeks to clarify the public debate regarding human rights and the demands related to sexual diversity, identifying the main actors in this debate and the arguments they employ. We look at what type of argumentation was utilized in these public debates: arguments referring natural order, embedded in scientific or naturalizing discourses; legal arguments; and, finally, religious arguments. We will examine how actors have positioned themselves in the public sphere<sup>2</sup> via the controversies exposed in the Chamber of Deputies. In the Brazilian political scenario represented here by the Chamber of Deputies,

public space is constituted as the locus in which confrontations occur between different and distinct social actors who are motivated by conflicting interests and values that are expressed in disputes and power relations (Gomes; Natividade; Menezes, 2009:20).

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<sup>1</sup> This article is the result of a research project regarding abortion and sexual diversity in the context of the debate over human rights in Brazil, begun in 2015 (which is the reason we chose this year for our documentary research). It is the continuation of my research into the status of fetuses and embryos and the debate over human rights in Brazil. The study is part of the research project entitled “Abortion and Sexual Diversity: The Unborn Statute, Homophobia, Individualism, and Conservatism in Public Debates Regarding Human Rights in Brazil”. This project was granted an APQ-1 grant from FAPERJ and a Productivity Level 2 Scholarship from CNPq. I would like to thank research assistant Everton Batista Teixeira, a FAPERJ Scientific Initiation scholar, for his work in gathering the data on the Chamber of Deputies.

<sup>2</sup> According to Montero (2016:136) “the concept of the public sphere is linked to an action that takes place in a social space that is understood to intermediate between intimate spaces and the sphere of the State”. The discussion about religion and the public sphere will be further developed below.

This will be demonstrated in the analysis of the speeches and legislative proposals, which we will undertake below.

In order to verify how sexual diversity became an object of debate in the Chamber of Deputies, we searched out speeches and propositions regarding the theme. We had already accompanied the debate regarding the status of fetuses and embryos in the context of abortion, assisted reproduction, and stem cell research. We were thus initially surprised to discover that the discussions surrounding sexual diversity had given rise to an even greater number of speeches and proposals, involving a much larger number of deputies than the abortion issue.

Our research took place through the Chamber of Deputies' web portal, where we searched out legislators' speeches and legal proposals.<sup>3</sup> We found 18 speeches concerning abortion in 2015, but 56 regarding sexual diversity. There were 14 legislative proposals that touched upon abortion and 60 which contemplated sexual diversity. Comparing themes that referred to sexual and reproductive rights, we could find no speeches that referred to "assisted reproduction" or "*in vitro* fertilization", but we discovered

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<sup>3</sup> Chamber of Deputies Web Portal: <http://www2.camara.leg.br/>. **Bill:** A proposal that is designed to regulate phenomena that are situated as under the competency of the Federation and within the National Congresses' mandate, subjected to presidential sanction or veto after approval. **Legislative Decree Project:** Designed to regulate phenomena that are the exclusive competency of the Legislative Branch and which are not subject to the sanction of the President of the Republic. These can be the approval of international acts; the approval or rejection of concessions or the renewal of concessions for radio services; authorization for the President of the republic to leave the country; juridical relations stemming from the end of a provisional measure; acts practiced during a provisional measure; indication of the authority of a TCU (a federal financial tribunal); plebiscites or referendums; monetary programs and the sustenance of the Executive Branch's normative acts. **Request or Requirement:** A proposition via which a congressperson urges the adoption of a given measure. **Indication:** A proposition via which a congressperson suggests the mobilization of one or more commissions or the Executive Branch around a given topic, seeking the creation of a project regarding the topic or the adoption of some stance, or the realization of an administrative or management action [<http://www2.camara.leg.br/glossario>. Chamber of Deputies' Glossary – accessed on: 17 jun. 2017].

four legislative propositions that referred to “assisted reproduction” in 2015. In other words, looking at 2015 alone, the number of speeches and legislative proposals concerning sexual diversity was very significant.<sup>4</sup>

In the present article, we understand “sexual diversity” to mean “diversity in terms of sexual orientation and gender identity”.<sup>5</sup> The initial objective of our research was to investigate the debates around abortion and sexual diversity as these linked up to the theme of human rights. However, the results we obtained through our key words search changed the focus of the present text to denunciations of “gender ideology” by members of the Chamber of Deputies.

Speeches and legislative proposals were grouped according to key words.<sup>6</sup> We verified that the majority of the speeches and proposals contained more than one key word, however.<sup>7</sup> Although

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<sup>4</sup> By way of comparison, our earlier research that looked at the years 2011-2014 found an average of 27 mentions of “abortion” in speeches per year and another 6.75 mentions of the word in legislative proposals. This demonstrates the intensity with which sexual diversity was discussed in congress in 2015.

<sup>5</sup> This longer expression was taken from the presentation of the book *Sexual Diversity in Education: Problematizing Homophobia in the Schools*, organized by Rogério Diniz Junqueira at the request of the Secretariat of Continuing Education, Literacy and Diversity of the Education Ministry.

<sup>6</sup> <http://www2.camara.leg.br/>. The key words were divided into two blocks. The first was made up of themes linked to sexual diversity and the second made up of themes linked to themes linked to abortion. The first block contained: LGBT, sexual orientation, gay, gays, homophobia, transphobia, homosexual, homosexuality, homosexuals, lesbians, homosexuality, and sexual option. The arguments in the speeches and proposals were analyzed. With respect to sexual diversity, the positions presented were classified as pro- or anti-diversity.

<sup>7</sup> We found 104 speeches that contained references to sexual diversity. Eliminating repeats due to multiple key words (given that the great majority of the speeches contained more than one) we arrived at a total of 56 speeches. We also located 162 legislative proposals which, upon elimination of repetitions ended up reduced to 60. The largest category in the proposals was LGBT (the umbrella category with 37 hits), followed by sexual orientation (34), gays (16), homophobia (15), lesbians (14), gay (12), travesti (11), homosexuals (9), homosexuality (6), homosexual (5), sexual option (2), and transphobia (1).

the umbrella category “LGBT” predominates in these discourses, other identity categories are also evoked, as well as categories that define conditions (sexual orientation) and discrimination (homophobia).

The present article will focus on the events and initiatives that were the object of debate in congress and which generated such a large reaction among congressmen. These are: (1) the 2015 São Paulo Gay Pride Parade; (2) Resolutions 11 (18/12/2014) and 12 (16/01/2015) of the National Council for Combating Discrimination Against and for Promoting the Rights of Lesbians, Gays, *Travestis*, and Transsexuals (CNCD/LGBT). This organization was linked to the Secretary of Human Rights and fought for the institutional recognition of gender identity; Law # 13,005 of June 25<sup>th</sup> 2014 that approved the National Education Plan (PNE), associated with the National Education Conference of 2014.

The São Paulo parade generated the largest number of speeches while the CNCD/LGBT’s two resolutions and the law that approved the PNE generated the most legislative proposals. Although they didn’t generate significant numbers of hits, I’d also like to point out two proposals that sought to modify the Childhood and Adolescence Statute and the initiative to criminalize the transmission of an incurable disease, as well as the public audience with people who had stopped being gay.

At first glance, the large number of speeches about the theme and the number of deputies who signed proposals (some of whom were united in a large collective) suggests that on many occasions linkages among congressmen occurred with respect to sexual diversity in order to block the initiatives of the LGBT movement. This confirms the findings of several studies such as those undertaken by Vital da Cunha and Lopes (2013) and Machado (2015, 2017), which indicated that these sorts of mobilizations are taking place, as well as other studies that look at the obstruction of feminist demands, particularly with regards to abortion (Luna, 2014; Miguel; Biroli; Mariano, 2016; Machado, 2016).

We have thus tried to capture, in public debate, disputes that reference moral values and which define access to and restriction

of rights. From these conflicts, legislation is defined and public policy is born. As Vital da Cunha e Lopes points out with regards to criticism of religious presence in public spaces and, particularly, of religion's advance into the public sphere, this sort of activity "is related to the imposition of the values of one group, harming the protection and the guarantee of human and citizenship rights of other groups" (Vital da Cunha; Lopes; 2013:8). In this way, models of citizenship are made and unmade in political confrontations. The present study is also an opportunity to evaluate how social actors interfere in decisions that affect the State, specifically (in this case) in the legislative sphere, but also in the sphere of public policy, as we shall see below.

Going beyond the linkages connecting social actors, there exists an ideological aspect in these debates that must be analyzed. The demands related to sexual diversity are anchored in an individualist configuration of values that is characteristic of the modern West (Dumont, 1997). In this, the indivisible and elementary human being – the individual – is "the normative subject of institutions" and incarnates humanity as a whole. The central values of this ideological configuration are liberty and equality.

Mauss (2003) analyzes the historical construction of the individual up to the arrival of the category "I", of the psychological being, towards the end of the 18<sup>th</sup> century. One of the aspects of this historical development took place in ancient Rome, when the concept of the *persona civilis*, the rights-bearing citizen, gains the moral meaning of the conscious, independent, autonomous, free, and responsible being. For this reason, the category of *person* is also related to the problem of individual rights, a point that repeatedly appears in demands with regards to sexual diversity: Protection against homophobia, guaranties of marriage rights, the right to constitute families, and inheritance rights (Natividade; Lopes, 2009; Lorea, 2006). Among other examples of these demands, we find the debate in Congress regarding the criminalization of homophobia, the law against discrimination based on sexual orientation in public establishments in the State of Rio de Janeiro,

and recognition of retirement and pension rights for same-sex couples in the State of Rio de Janeiro, as studied by Natividade and Lopes (2009).<sup>8</sup> Lorea (2009) argues that a Law regulating gay marriage is not necessary, as long as access to this right is guaranteed, and treating homosexual couples differently is penalized.

The debate regarding these questions in public space has been associated with human rights both by conservative segments who oppose sexual diversity (Duarte *et al.* 2009; Vital; Lopes, 2013) and those who favor LGBT rights (Lorea, 2006) and the legalization of abortion (Machado, 2010). According to Carrara, this debate is related to

...growing identitarian specificity among political and rights-bearing subjects, or in other words, to the way in which the language of rights, and in particular that of human rights, is being activated to reconfigure the old movements of different “sexual minorities” against stigma and discrimination (2015:325).

In order to better understand this dynamic, it is important to focus upon this debate in the public space.

### **Religion in public space and the rise of conservatism: The return of those who never left**

The conservative reaction to the demands for rights made by the social movements that struggle for sexual and reproductive rights (such as the feminist and LGBT movements<sup>9</sup>) has been

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<sup>8</sup> Natividade and Lopes studied the trajectory of PL 5003/2001 (PLC 122/2006, which touched upon homophobia; Law 3406/2000 which created sanctions against public establishments in the State of Rio de Janeiro that discriminated based on sexual orientation; and retirement and pension rights in the State of Rio de Janeiro, which were approved by Law 3786/2002.

<sup>9</sup> Carrara (2010:135) defines LGBT rights, or rights with regards to sexual diversity, in the following way: “Sexual rights refer to legal prerogatives relative to sexuality or to social groups whose identities have been forged under specific

associated with religious leaders who express themselves in public space. Ironically, this “return of those who never left” refers to conservative positions that have traditionally been hegemonic in Brazilian society, but which become explicit when challenged by the agendas of other groups of social actors.

Although the present article focuses on the theme of sexual diversity and the employment of the phrase “gender ideology” in debates in the Chamber of Deputies, a comparison with positions regarding abortion can be helpful. First, we must emphasize the importance of the Catholic church as a key actor in this context. The Church confronted the Brazilian military dictatorship and helped form a culture of rights stimulated by liberation theology and the Ecclesiastic Base Communities movement. It participated in many causes related to social justice, such as agrarian reform, the defense of indigenous peoples and workers’ rights and, in general, aligned itself with the left on these topics. When it comes to sexual and reproductive rights, however, the Church’s activities have notoriously leaned to the right (Rosado-Nunes, 2008).

In analyzing the Catholic Church’s position with regards to demands relating to individual liberties and the debates on human rights, the debate regarding abortion and other themes linked to the so-called “defense of life”, such as euthanasia are key. The conflict between this conservative religious organization and the groups that defend human rights has exploded in several disputes in public space regarding questions surrounding reproduction and sexuality, particularly abortion, contraception, and sexual diversity. The Catholic Church has taken public positions on all these themes. It is a high-powered pressure group in many countries,

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forms of desires and sexual practices”. Carrara (2010:135) also observes that some of these rights are not related to sexuality – “retirement and pension questions, adoption, freedom of movement in public spaces, or the changing of name and sex on birth certificates” – but have been understood through this lens. According to Corrêa and Petchesky (1996:151), the term “reproductive rights” is related to ideas regarding “bodily integrity and sexual self determination”. Four ethical principles form the base of these rights: bodily integrity, personal autonomy, equality, and diversity.



particularly in Latin America as well as in its Catholic root nations in (Vaggione 2012; Ruibal, 2014; Zuringa, 2014). Minkenberg (2002) analyzed the relationship between religion and public policies in a comparative study that looks at Western liberal democracies and found a positive correlation between legislatures that restrict abortion and confessional Catholic heritage, particularly in countries where high levels of religiosity still persist. Ireland was the main example in this sense. This pattern is confirmed in Latin American countries where the Catholic religion is still hegemonic and secular traditions are weak. These countries also show a general tendency towards legislation restricting abortion (Ruibal, 2014; Zuringa, 2014), with the exception of Mexico City and Uruguay, where more established secular traditions prevail. Uruguay legalized abortion during the first trimester in 2012.

The question is whether the efforts of the Catholic Church and other religious groups is “out of place”, given the view that modernity would confine religion to the private sphere, according to the more traditional interpretations of secularization theory (Berger, 1985). Authors such as Casanova (2010) and Berger (2001) have questioned secularization theory with regards to the retreat of religion to the private sphere in modernity (Berger, 1985). Berger points to a process of de-secularization (2001), while Casanova interrogates the privatization of religion as a consequence of the secularization process.

Looking at the agendas of the feminist and LGBT movements in Brazil, Machado (2012:33) claims that:

The proposals to revise existing legislation in the field of abortion and the creation of new rights for gays, lesbians, bisexuals, *travestis*, the transgendered amplify the already existing tensions between traditionalist religious coalitions and the government.

According to the author, this resulted in conservative activism in the 2010 elections, but as my research has shown, this activism extended beyond that year’s electoral arena.

Conservative activism in the federal legislative sphere also included the reaction to the Supreme Court’s decisions regarding Brazil’s 2008 biosecurity law which permits the use of human embryos to generate stem cells (Luna, 2013), the termination of pregnancy in the case of anencephalic fetuses, and homosexual marriages (both of these latter decisions in 2012 – Coutinho Filho, 2014).

Machado (2012) shows that evangelical and Catholic politicians were associated with several political fronts that fought against LGBT rights and were allied with anti-abortion initiatives, which confirms my research in the federal legislature (Luna, 2014). The public survey regarding how to define families, which was linked to Anderson Ferreira’s (PR/PE evangelical deputy linked to the Assembly of God) Family Statute bill was yet another conservative reaction in this sense. Ferreira’s bill defines the “family” as formed by a man and a woman, claiming to be based upon the (literal) text of the Brazilian.<sup>10</sup>

In analyzing the content of these debates regarding abortion, the status of embryos, and the freedom of expression of the feminist and sexual diversity movements, we can establish a relationship between fundamentalist beliefs and scientific arguments.<sup>11</sup> Vaggione (2012) identifies a certain shift from the religious to the secular, in which secular actors and arguments are gaining greater protagonism without undermining the Catholic hierarchy or the authority of arguments based upon the belief that education falls under the authority of the Church.

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<sup>10</sup> Cf. article from 8/10/2015 in the news website *Câmara Notícias*, on the chamber of Deputies web portal. “Câmara aprova Estatuto da Família formada a partir da união de homem e mulher” [<http://www2.camara.leg.br/camaranoticias/noticias/DIREITOS-HUMANOS/497879-CAMARA-APROVA-ESTATUTO-DA-FAMILIA-FORMADA-A-PARTIR-DA-UNIAO-DE-HOMEM-E-MULHER.html> – accessed on 2016].

<sup>11</sup> An example can be seen in anti-abortion religious figures who defend the concept that embryos have rights from conception on because they contain a unique genetic constitution.

Por otro lado, el activismo católico pone en escena una articulación distinta entre religión y política. La presencia de ONGs pro-vida o pro-familia junto al incremento en la circulación de justificaciones científicas, legales o bioéticas para rechazar los derechos sexuales y reproductivos (por parte tanto de estas ONGs como de la jerarquía católica) evidencian una forma diferente en las políticas de lo religioso (Vaggione, 2012:75).

Referring to the conservative activism of the Catholic Church, Vaggione, shows that religious argumentation is giving way to secular argumentation and that scientific references are taking the place of Biblical references (Vaggione, 2012:69). These shifts are related to the greater legitimacy of scientific and juridical discourse in the public sphere, associated with the Western cosmopolitanism that understands reality to be rooted in nature and sees Law as being the adequate means of resolving public disputes. The intermediation between the State and society is the prerogative of the Law, which shifts religion's role as a regulatory principle of social and political life (Machado, 2012:30).

The present article seeks to clarify the presence of religion in the public sphere, verifying if the reaction found in the chamber of Deputies is a response to the success of feminist and sexual diversity movements in placing the regulation of sexuality on the public agenda. Vaggione (2012:58) observes that many religious traditions have become politicized (at least in part) in defense of a model of family and sexuality that they believe is threatened by the new sexual policies proposed by the feminist and sexual diversity movements, and which have an impact upon both the State and the religious field.

Vital da Cunha and Lopes (2013) observe that in the recent public debates, the argument of "being religious" or of "the rights of the religious" are utilized in order to impede other groups from achieving rights. The first aspect of these arguments is evangelical groups' understanding of secularism as the defense of equality of treatment of different religions by the state. In consequence,

religion is understood as "one more social-political pressure group that has the 'right' to use the same social space as secular groups and movements" (Vital da Cunha; Lopes, 2013:21). The treatment that is demanded for all religions is later configured into a demand for a predominance of certain moral values, of the denominations and discourses of one religion in front of all others. For example, during the debates over the bill that would criminalize homophobia (PL 122/2006), the argument was that the religious were defending freedom of religion (Natividade; Lopes, 2009). The defense of religious freedom and the values that are understood as religious are these groups' battle cry. Vaggione (2012:70) claims that, in spite of increased secularization, secular Law is permeated by Catholicism – or, more specifically, by Catholic beliefs – with regards to questions of family and sexuality. The majority of the demands of the feminist and sexual diversity movements are based upon the need to distinguish between religious regulation (valid for a part of the population) and secular law as a system of rules which apply to believers of various traditions and non-believers. Because of this, laws are seen as threats when they promote "mentalities" or "customs". This expression paraphrases the Encyclical of the *Evangelium Vitae* analyzed by Vaggione, whose message opposes the "culture of life" supposedly promoted by the Catholic Church to the "culture of death" which is supposedly present in pluralist societies and which is understood as contrary to the values of the Church. "The idea of a natural family, sustained by natural law, is fundamental pillars of the conservative Catholic activism that confronts the growing pluralism of contemporary societies" (Vaggione, 2012:70-71, my translation).

Also according to Vaggione, conservative Catholic activism has fomented several different strategies to impede the advance of feminist and sexual diversity demands in contemporary democracy. Among these strategies are instructing legislators to defend Catholic values and beliefs in their political activities, stimulating conscientious objection, and judicializing the use of emergency contraception, understood to be abortion.

The first two strategies apply to sexual and reproductive rights in general: for example, State officials who refuse to marry same-sex couples or to collaborate in practices or legislation that advance LGBT rights, abortion, or euthanasia. In the Fraternity Campaign of 2008, whose motto was “Fraternity in defense of life”, the base text presented proposals for “human promotion”, such as the creation of graduate courses in Personal Bioethics and the stimulation of the study of bioethics for all members of the various levels of the Catholic Church. It also promoted public policies actions such as ensuring compliance with Article 5 of the Constitution, which guarantees the inviolability of the right to life. Other strategies include lobbying parliamentarians in order to prevent the passage of bills on abortion, proposing legislation to combat the freezing of embryos, and ensuring respect for conscientious objection (Luna, 2010:96). In addition to following the guidelines of the Church, jurists have organized themselves into associations of Catholic jurists and magistrates (Luna, 2013) to better defend the Church’s objectives.

Surveys that focus on evangelical politicians also show growing conservative articulation in Brazil (Machado, 2006; Vital, Lopes, 2013), with evangelicals competing with Catholics for priority of place, shifting alliances and disputes depending upon the object in question. A number of studies emphasize the importance of religious actors, especially Christians, in political controversies in Brazil (Duarte *et al.*, 2009, Luna, 2013) and other South American countries such as Uruguay and Argentina (Rostagnol, 2008; Rostagnol; Gutierrez, 2009). These studies have also shown that feminist and LGBT movements have sought to link up in different ways in the public sphere, sometimes employing strategies oriented towards the Judiciary and the Legislative Branch (Ruibal, 2014). These groups have also invested in the reconstruction of their public image. This is the case of LGBT organizations’ investment a “family” image, as occurred in Argentina, which led to the approval of that country’s equal marriage law (Vespucci, 2014). This is similar to the recent interpretation of the Brazilian Supreme Court regarding

homoaffective couples, equating stable union with marriages in their judgment of the Action of Non-compliance with Basic Precepts ADPF 132 and the Direct Action of Unconstitutionality ADI 4277 (Coitinho Filho, 2014). The conservative reaction in the legislature also responds to these defeats in the Judiciary and conservative’s inability to block the recognition of stable unions between people of the same sex.

Our research found three main points of mobilization for parliamentarians in 2015, as expressed by speeches and legislative proposals. In terms of speeches, the most discussed topic was the 2015 São Paulo LGBT Parade. With respect to legislative proposals, two events shared the limelight in the debate: two resolutions that dealt with gender identity by the National Council on Combating Discrimination, an organ linked to the Secretariat of Human Rights; a reaction to the law approving the National Education Plan’s inclusion of content understood by conservative congressmen as “gender ideology”, contrary to previous decisions of the two houses of Congress.

Less numerous in these debates, although still significant with regards to attempts to criminalize gender ideology, are discussions of two amendments to the federal Child and Adolescent Statute, a bill regarding criminalizing the transmission of an incurable disease, and a public hearing request from people who claim to be no longer gay. Contemplating all the discourses and legislative propositions we found would exceed the space available in this article, so we will only present here those topics and debates which we consider to be the most significant.

### **The 2015 LGBT Pride Parade in São Paulo**

The 19th edition of the São Paulo LGBT Pride Parade, held on June 7 2015, was the most cited event in speeches in the Chamber of Deputies during that year, as located by our keyword search. Of the 56 speeches identified by our research, 26 mentioned the events in São Paulo, of which only three defended the march: all others criticized it. Criticisms and questions revolved

around a specific manifestation that occurred during the parade: a piece of performance art that included a crucified transsexual woman. At the top of her cross was a sign reading “enough”, “homophobia” and “LGBT”.<sup>12</sup> The transsexual actress claimed to have used the cross to protest against homophobia and to show the pain and discrimination suffered by the LGBT community. She claimed the crucifixion was not intended to offend the Church. Searching through coverage of the event in the press, none of the online sources we located contained coverage of the crucifixion performance. Only by searching for the words “transsexual” and “crucified” were we able to locate reports of this performance. Many of these articles reported the parade’s theme – “I was born like this, I grew up like this, I will always be this way: respect me”<sup>13</sup> – and had pictures of people carrying posters with slogans such as “love thy neighbor”<sup>14</sup>, without headlining the performance.

In the days following the event – the 9th, 10th and 11th of June – there was a large number of speeches in the chamber of Deputies that referenced the parade. One of the mottos most repeated by the deputies was with regards to “respect”. In a

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<sup>12</sup> “I represented the pain we feel”, says transsexual “crucified” at the Gay Parade [<http://g1.globo.com/sao-paulo/noticia/2015/06/representei-dor-que-sentimos-diz-transsexual-crucificada-na-parada-gay.html>] – Accessed on July 26th 2016].

<sup>13</sup> Gay Parade brings together thousands in SP [<http://g1.globo.com/sao-paulo/noticia/2015/06/parada-gay-reune-milhares-em-sp.html>] – Accessed on July 26th 2016].

<sup>14</sup> Image can be viewed at: [https://www.google.com.br/search?q=19+parada+do+orgulho+LGBT++S%3A3%A3o+Paulo+2015&biw=1024&bih=499&tbn=isch&imgil=KLijoMNA3aGU\\_M%253A%253BkfqBZt3bOvd2sM%253Bhttps%25253A%25252F%25252Fcatracalivre.com.br%25252Fsp%25252Fmuito-mais-sao-paulo%25252Fgratis%25252F19a-parada-do-orgulho-lgbt-de-sao-paulo-ja-tem-data-marcada%25252F&source=iu&pf=m&fir=KLijoMNA3aGU\\_M%253A%252CkfqBZt3bOvd2sM%252C\\_&usq=\\_\\_vQU1waJFBHZyJp9\\_Mbrh7GY-skl%3D&dpr=1&ved=0ahUKEwiz7IvzuZHOAhUDjpAKHaxIBGUQvjcINA&ei=MoKXV7OLD4OcwqSskZGoBq#imgrc=KLijoMNA3aGU-M%3A](https://www.google.com.br/search?q=19+parada+do+orgulho+LGBT++S%3A3%A3o+Paulo+2015&biw=1024&bih=499&tbn=isch&imgil=KLijoMNA3aGU_M%253A%253BkfqBZt3bOvd2sM%253Bhttps%25253A%25252F%25252Fcatracalivre.com.br%25252Fsp%25252Fmuito-mais-sao-paulo%25252Fgratis%25252F19a-parada-do-orgulho-lgbt-de-sao-paulo-ja-tem-data-marcada%25252F&source=iu&pf=m&fir=KLijoMNA3aGU_M%253A%252CkfqBZt3bOvd2sM%252C_&usq=__vQU1waJFBHZyJp9_Mbrh7GY-skl%3D&dpr=1&ved=0ahUKEwiz7IvzuZHOAhUDjpAKHaxIBGUQvjcINA&ei=MoKXV7OLD4OcwqSskZGoBq#imgrc=KLijoMNA3aGU-M%3A) > Accessed on July 26th 2016.

speech on the 9th, Eduardo Bolsonaro (PSC-SP, Catholic)<sup>15</sup> evaluated the attitudes observed in the Gay Parade in the following manner: “these people who ask for respect, who ask to be respected, and in the Gay Parade last Sunday in São Paulo, [they] gave evidence to the contrary”. On the 10<sup>th</sup>, Deputy Flavio Augusto da Silva (PSB / SP, Catholic)<sup>16</sup> said that “In order to be respected, we have to respect, and these LGBT movements have gone beyond reasonable limits. They have gone beyond all ethical, moral, and now also religious limits.”

Another accusation raised against the performance was that of religious intolerance. On the 11<sup>th</sup>, Alexandre Serfiotis (PSD-RJ, Evangelical) announced that he was “worried about the intolerance” stemming from the LGBT Parade and repudiated “the flagrant disrespect of the religious beliefs of millions of Brazilians, which is Christianity in its various forms”. The deputy claimed that the “lamentable acts” that occurred in the parade represented “a serious setback for the struggle of the LGBT movement, since they demonstrate that an large part of this movement does not practice what it preaches regarding respect for differences, shamefully disgracing the millions of Brazilians who do not think like as they do”. Also in a speech on the 11<sup>th</sup>, Congressman Evandro Gussi (PV-SP, Charismatic Catholic Renewal) repudiated the “usurpation of the religious symbols of the Christian faith”. In a speech on June 16<sup>th</sup> about the episodes that took place during the Gay Parade in São Paulo, Aureo Ribeiro (SD-RJ, Evangelical, Methodist Church) repudiated the “lack of respect” and said that it was “a sort of religious intolerance, scornful of faith, [full] of prejudice and wrath”.

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<sup>15</sup> In 2015, Deputy Eduardo Bolsonaro self-identified as Catholic according to our research. In 2017, Wikipedia identifies him as evangelical. Cf. [https://pt.wikipedia.org/wiki/Eduardo\\_Bolsonaro](https://pt.wikipedia.org/wiki/Eduardo_Bolsonaro). Accessed on October 21st, 2017.

<sup>16</sup> Deputy Flavinho (Flavio Augusto da Silva, PSB-SP) is active on Rádio Canção Nova, a media source controlled by the Charismatic Catholic Renovation movement.



Another repeated charge was that the March and the performance were an attack on the family. On the 9<sup>th</sup>, Corporal Sabino (Flavio Alves Sabino, PR-CE, Evangelical Assembly of God) defined the acts that occurred in the Parade as “an affront to every family in this country, every good, serious, and honest person”. On the 10<sup>th</sup>, Deputy Captain Augusto (Jose Augusto Rosa, PR-SP), addressed the “crucifixion of homophobia”, affirming that “The gays who performed the crucifixion have offended, beaten, despised, and spit in the face of the Brazilian family”. The deputy then questioned why people who act in this fashion are immune from prosecution.

It is important to highlight the views of those who are leaders of the parliamentary fronts. On June 9<sup>th</sup>, Geovania de Sá (PSDB-SC, Evangelical, Assembly of God), speaking as Vice President of the Evangelical Parliamentary Front and member of the new Joint Parliamentary Front for the Defense of the Family and Support of Life, said she was “ashamed of the lamentable scenes” and felt obliged “to repudiate with vehemence all acts that violate the principles and values that guide Christian life.” In a speech on the 10<sup>th</sup>, Deputy Givaldo Carimbão (PROS-AL, Catholic) in said that “it was not fair what was done with the sacrament and with our faith.” He registered his position “in the name” of those who “understand that the greatest patrimony of a society is the living family”. As president of the Catholic Parliamentary Front, he would talk to the Evangelical Parliamentary Front and the Parliamentary Front for Life in order to “make decisions together from now on”. He then said that the Chamber said “no to gender policy in Brazilian education.” It is important to point out that this Congressman associates what he understands to be “religious disrespect” with “gender policy”.

The connections between religious congressmen became official on June 10<sup>th</sup> when João Campos (PSDB-GO, evangelical, pastor of the Assembly of God) read a note of repudiation, written by the evangelical and Catholic Congressional Fronts and the Congressional Front for the Defense of Life, against the acts of the parade that “mocked, disdained, and vilified” the “faith” and “the

religious beliefs of the Brazilian people, who in their great majority are members of the Christian faith.” “The activists of the LGBT movement committed the crime of desecration against a religious symbol, offending collective sentiments of religiosity and belief by using symbols of Christianity in a disrespectful way, mocking and ridiculing the sacrifice of Jesus on the cross.” Some deputies declared themselves as having a duty to protest as Catholics or evangelicals.

From this set of statements regarding the LGBT parade, we can see the linkages of Catholic congressmen (mainly those of the Charismatic Renewal) and evangelicals in denouncing intolerance and the supposed desecration of a religious symbol. This linkages, however, extends to accusations that the LGBT movement will destroy the family. Givaldo Carimbão ties these aspects together in his protests against “gender policy”.

In reaction to the parade, ten information requests regarding LGBT Pride Parade funding<sup>17</sup> were presented as well one request for a public hearing regarding offense to religious symbols<sup>18</sup> and another request convoking Minister Pepe Vargas of the Secretariat of Human Rights in order to provide clarification regarding the parade and questioning the event’s public financing public.<sup>19</sup>

On the 11th and 15th of June, respectively, Chico Alencar (PSOL-RJ, Catholic) and Luiz Couto (PT-PB, Catholic priest) made speeches in favor of the parade. Chico Alencar, assuming his “religious responsibilities” also declared that he was a defender of

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<sup>17</sup> RIC 627/2015 and RIC 628/2015 by Congressman Silas Câmara (pastor of the Assembly of God PSD-AM); RIC 635/2015, by Congressman Vinicius Carvalho (evangelical, PRB-SP); RIC 636/2015, RIC 637/2015 and RIC 638/2015 by Congressman Sóstenes Cavalcante (pastor for the Assembly of God, PSD-RJ); RIC 668/2015 and RIC 669/2015, by Congressman Alan Rick (pastor for the Assembly of God, PRB-AC); RIC 699/2015 and RIC 700/2015, by Congressman Ronaldo Nogueira (PTB-RS, pastor for the Assembly of God).

<sup>18</sup> REQ 76/2015 CDHM, by Congressman Major Olimpio (Sergio Olimpio Gomes, PDT-SP).

<sup>19</sup> REQ 80/2015 CDHM, by Congressman Ezequiel Teixeira (SD-RJ, evangelical, New Life project)

“the right to belief and to non-belief”. Concerning the crucifixion performance, he affirmed that “everyone who suffers discrimination, prejudice, any form of combat, as Christ himself suffered, including from the dominant religions of his time, is also being crucified unto this day”.

Both Congressmen agree with the reflection of Baptist pastor Henrique Vieira, who is a city councilman for the PSOL in Niterói. Citing one of the Pastor’s articles, Luiz Couto regretted “that there is no possibility for dialogue with religious fundamentalists”. In a statement on June 11, Congresswoman Erika Kokay (PT-DF) complained that pamphlets distributed in the Chamber the day before, which claimed to describe the parade, were misleading since only one of the photos on the pamphlet was from the parade: precisely the one which showed the “performance of a transsexual woman; a performance where she equates her suffering from discrimination in a society based on heteronormativity, to the suffering experienced by Christ”. The rest of the photos on the pamphlet were from a march in Rio de Janeiro in 2013.

### **Resolutions 11 (12/18/2014) and 12 (01/16/2015) of the National Council for Combating Discrimination and Promoting the Rights of Lesbians, Gays, *Travestis*, and – CNCD/LGBT**

Both of these resolutions deal with the institutional recognition of gender identity. Resolution 11, dated 12/18/2014, establishes parameters for the inclusion of sexual orientation, gender identity, and social name in police reports<sup>20</sup>, which are

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<sup>20</sup> Sexual orientation “is a reference to each person’s ability to have a deep emotional, affective, or sexual attraction to individuals of a different gender, of the same gender, or of more than one gender, as well as having intimate and sexual relationships with such persons”. Gender identity “is each person’s deeply felt, inner, and individual experience of gender, which may or may not correspond to the sex attributed to them at birth, including their personal sense of their body (which may involve, by choice, modification of the body’s appearance or function’s by medical, surgical, or other means) and other expressions of gender, including dress, manner of speaking, and other mannerisms”. Social

defined “taking into consideration the Yogyakarta Principles”. It also establishes an operational definition of the concept of *social name*: “the name by which transvestites and transsexuals identify themselves and are identified by society”. Meanwhile, resolution 12 of January 16, 2015,

Establishes parameters for guaranteeing conditions of access and permanence of *travestis* and transsexuals – and of all those who have their gender identity unrecognized in different social spaces – in educational systems and institutions, formulating guidelines regarding the institutional recognition of gender identity and the functioning of these guidelines.

Some legislative proposals refer to one of the resolutions and others to both. I will focus here on the drafts of legislative decrees (PDC) whose purpose is to amend these resolutions.<sup>21</sup>

There was more reaction against Resolution 12, which deals with the institutional recognition of gender identity in educational institutions, than against Resolution 11, which deals with police reports. Legal arguments predominate among those put forward against these resolutions. These include: (1) the fact that adolescents are legally unable to respond for their acts before the age of 16 and therefore cannot legally choose to change their name; (2) the unconstitutionality of the proposals; (3) accusations that these decisions by the Secretariat of Human Rights went beyond the Secretariat’s competency, according to the division of powers within the Republic, in attempting to create changes in criminal legislation via an administrative act.

Aside from these legal arguments, three themes have been repeatedly invoked in objections to Resolutions 11 and 12: family, school, and “gender ideology”.

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name is the name by which *travestis* and transsexuals identify themselves and are identified by society.

<sup>21</sup> Available at <<http://www.sdh.gov.br/sobre/participacao-social/cncd-lgbt/resolucoes/resolucao-012>> – accessed on July 26th, 2016.

With regards to the family, the Congressmen accuse Resolution 12 of not considering the need for parental consent in the institutional recognition of gender identity. They claim that: the Resolution suppresses parental participation in the choices of children under sixteen years of age<sup>22</sup>; the State must provide the means to secure family power, not take decisions in its place<sup>23</sup>; the Resolution guarantees the recognition of gender for adolescents without the consent of their legal guardians, contrary to letter of the Statute of the Child and Adolescent<sup>24</sup>; the Resolution violates the Statute of the Child and Adolescent by making it possible for adolescent students to change their gender without authorization of their guardians<sup>25</sup>. The first author of each of these legislative decree projects (PDC) is religious, being a Catholic (Charismatic Renewal). The other authors are pastors of different evangelical churches.

Defense of school is another argument raised against Resolution 12 in another PDC by an evangelical author. The proposal would supposedly bring “social chaos... into the daily lives of students in the public and private systems... by allowing freedom of sexual choice” in the use of toilets and locker rooms. The proposal warns that the educational network is not “prepared” to implement mechanisms of supervision and control in the use of these spaces.<sup>26</sup>

The third problem alleged by the legislative decrees that aim to block the two resolutions is the accusation that said resolutions stimulate so-called “gender ideology”. Resolution 12 is thus

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<sup>22</sup> PDC 30/2015 by Eros Biondini (PTB-MG, Catholic, Singer in the Charismatic Renovation movement), and 50 other authors.

<sup>23</sup> PDC 26/2015 by Ezequiel Teixeira (SD-RJ, evangelical pastor, New Life Project).

<sup>24</sup> PDC 91/2015 by Congressman Fábio Sousa (PSDB-GO, evangelical pastor, Fountain of Life Church)

<sup>25</sup> PDC 16/2015 Congressman Marco Feliciano, PSC-SP, evangelical pastor Assembly of God.

<sup>26</sup> PDC 26/2015 by Ezequiel Teixeira (PSD-RJ, evangelical pastor, New Life Project).

accused of trying to “impose gender ideology in flagrant disregard of the National Congress via an antidemocratic juggling game”.<sup>27</sup> A related accusation is that the Resolution would constrain “the norm of good manners” in “allowing people who say their gender identity is different from their *chromosomes* to use the same toilets as other people”. This observation, made by Pastor Marcos Feliciano (PSC-SP), was a rare expression of biological determinism in this debate.<sup>28</sup>

Several legislative requests were also presented in reaction to the Resolutions: calling on the Secretary of Human Rights to provide clarifications; requesting a public hearing to discuss the resolutions; and calling urgently for a vote on the legislative decree project that supports Resolutions 11 and 12.<sup>29</sup>

I would like to highlight, in this respect, Request 20/2015, addressed to the Commission on Human and Minority Rights (REQ 20/2015 CDHM) by Mr. Ezequiel Teixeira (SD-RJ, evangelical), who called upon the Secretary of Human Rights to provide clarification on Resolution 12 in light of his claims that the family is the basis of society, that the authority of parents must be protected and that the Resolution would cause chaos in schools. Among the justifications presented by the Congressman, who opposes the proposal, are the following: “compulsory use of the ‘social name’ upon simple request of the minor in question, as well allowing the use of bathrooms, dressing rooms, and other spaces by segregated gender”. The proposal argues against this and that “the exercise of family power is the decision of the couple involved; the State is thus prevented from acting in this sense”. Teixeira also cites Article 226 of the Federal Constitution, which states that “the family, the basis of society, has the special protection of the State”. He also

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<sup>27</sup> PDC 115/2015, by Alfredo Kaefer (PSDB-PR), Catholic.

<sup>28</sup> PDC 16/2015, by Pastor Marco Feliciano (PSC-SP), Assembly of God.

<sup>29</sup> These are, respectively: REQ 18/2015 CDHM, by Jair Bolsonaro (PP-RJ), addressed to the Commission of Human Rights and Minorities, REQ 17/2015 CDHM, by Pastor Marco Feliciano (PSC-SP); REQ 2020/2015, by Alan Rick (PRB-AC pastor of the Assembly of God) and others.

warned that the Resolution would bring about “social chaos... for the students in public and private schools, allowing free sexual choice, with the consequent treatment and use of bathrooms, dressing rooms, and other spaces”. Given this, he affirmed, “The units of the educational network are not prepared to implement mechanisms of control and management in the use of these spaces” as demanded by the resolution.

### **The National Education Plan (Plano Nacional de Educação – PNAE)**

Another concern of the Congressmen was the National Education Plan (2014-2024). The two legislative houses had previously voted to withdraw all content related to gender and sexuality from the National Education Plan (the Senate in 2013 and the Chamber in 2014). Reis and Eggert (2017) look at how the National Education Plan was formulated: on December 20, 2010, the proposal for the new National Education Plan was presented to the Chamber of Deputies. After almost two years, the proposal passed the House and was sent to the Senate, maintaining the deliberations of the national education conferences regarding gender equity and respect for sexual diversity. The Senate approved the substitute bill on December 17 2013, removing from the wording of Item III of Article 2 the phrase “promotion of racial, regional, gender, and sexual orientation equality” (*apud* Reis; Eggert, 2017:15). According to the authors, opposition to so-called “gender ideology” intensified when the new bill returned to the House. It was finally approved and passed along for presidential sanction without specifying the aforementioned forms of discrimination.

The justification of the Request for Information (RIC 565/2015) authored by Izalci Lucas Ferreira (PSDB-DF) and others gives us an overview of the parliamentary debate. The Senate, voted for Executive Bill 8035/2010, authored by the Executive branch, approving “the National Education Plan [PNE] for the 2011-2020 decade and establishing other measures”. In the bill, two phrases “using terminology specific to gender ideology” were

identified: Article 2, Item III, which established among the PNE guidelines, “overcoming educational inequalities, with emphasis on the promotion of racial, regional, gender, and sexual orientation equality” and Strategy 3.12 of Goal 3 3.12), which proposed “to implement policies to prevent drop outs motivated by prejudice and racial, sexual orientation, or gender identity discrimination, creating a network of protection against associated forms of exclusion”. In 2013, the Senate approved the substitute bill PLC 103/2012. This eliminated “ideological language” according to Congressman Izalci Lucas Ferreira (PSDB-DF) in the Request for Information. The final wording of Section III of Article 2 in the PNE guidelines of proclaimed that the Plan would strive to “overcome educational inequalities, with emphasis on promoting citizenship and the eradication of all forms of discrimination.” Strategy 3.12 of Goal 3 had been renumbered as 3.13 and its final wording reads: “Implement policies to prevent drop outs motivated by prejudice or any form of discrimination, creating a network of protection against associated forms of exclusion.” According to this retrospective presented in RIC 565/2015, the Chamber of Deputies confirmed these changes by vote on April 22, 2014, with the bill becoming Law 13,005 / 2014, establishing the National Education Plan (PNE), sanctioned by President of the Republic on June 25, 2014.

However, the final document of the National Conference on Education (CONAE – 2014) maintained the sections on overcoming gender and sexual orientation inequalities and on “promoting ethnic-racial, gender, and sexual orientation diversity” (Brazil, 2014). Another reaction to the law establishing the new National Education Plan came from the Ministry of Education and the National Education Council, which published notes in 2015 criticizing the omission of actions that included the promotion of gender equality and respect for sexual diversity (Reis, Eggert, 2017). However, according to these authors, an alliance of conservative Catholics and evangelical Christians, as well as other civil society organizations, mobilized and accused state and municipal



authorities of including “gender and sexual diversity ideology” in local education plans.

In the Chamber of Deputies, the same sectors reacted to different initiatives to recover the original Plan’s contents by proposing changes in the Guidelines and Bases for Education and the National Education Plan and purging sections of the final document produced by the National Conference on Education.

Bill 1859/2015, authored by Congressman Izalci Lucas Ferreira (PSDB-DF, Catholic) and fifteen others, adds a single paragraph to Article 3 of Law 9.394/96 (the Guidelines and Bases for Education Law). PL 1859/2015 would prohibit the application of gender ideology or sexual orientation in education, including the following paragraph in Article 3:

Education will not develop teaching policies, nor adopt school curricula, nor mandatory, elective or complementary courses, that apply gender ideology or the terms “gender” or “sexual orientation”.

This proposal claims to be based on the “constitutional principle of the special protection of the family by the State” (Article 226 of the Constitution). It also states that it is the State’s obligation “to establish the legal means to guarantee that families have the possibility of defending themselves against those who disrespect their ethical and social values”. Based on the “constitutional principle of the privileged role of the family in education”, the bill denounces as a “constitutional contradiction an educational system designed with the specific objective of destroying the family as an institution”. The authors’ accusations against “gender ideology” in education is that this somehow destroys the family.

Another initiative which attacks gender and sexual diversity content in education is Bill 3236/2015 (PL 3236/2015), authored by Pastor Marco Feliciano (PSC-SP). This adds a single paragraph to Article 2 of Law 13.005 of June 25 2014, which approved the National Education Plan: “The attainment of the guidelines in

Section III of the original version of this article excludes the promotion of gender ideology by any means or form”. This PL prohibits “the propagation of the evil doctrine of gender” (sic) by any means or form, because of the conflict of this doctrine creates with “the moral and religious convictions of students or their parents or guardians”.

A third initiative to bar gender and sexuality material in education is Bill 122/2015 (PDC 122/2015), authored by Flavio Augusto da Silva (PSB-SP) and others.<sup>30</sup> This requires “an end to the effects of including gender ideology in the CONAE-2014 Final Document, signed and presented by the National Education Forum”. According to PDC 122/2015, the CONAE (National Conference on Education) Final Document aims to “implement the policy of sexual orientation” that was rejected by Congress when the National Education Plan was approved. PDC 122/2015 claims that if congress rejects a certain activity, the Executive Branch cannot “exercise its regulatory activity and effectively implement said matter”.

Among the several requests related to this claim are implied, I would like to look at only one: Information Request 565/2015 (RIC 565/2015), authored by Congressman Izalci Lucas Ferreira (PSDB-DF, Catholic) and 13 other co-authors. This “requires the Education Minister to present... information on the CONAE-2014 Final Document”. The presentation of this request opines that in the vote on the National Plan for Education, the Chamber of Deputies “suppressed the drafting of the third proposed guideline for Brazilian Education” which “contained the classic leitmotifs of the gender ideology: ‘sexual orientation’” and suppressed all allusions to these terms in the rest of that project. RIC 565/2015 claims that, although “the House and the Senate thus rejected gender ideology as a guideline for national education” in the published version of the CONAE-2014 final document, the

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<sup>30</sup> This congressman is Catholic and a member of the Charismatic Renovation. The PDC in question was collectively authored by Flavinho (Flavio Augusto da Silva, PSB-SP) and 66 other authors.

suppressed guideline was still published, citing “thirty-five times... strategies related to the terms ‘gender identity’ and ‘sexual orientation’, to be carried out under the responsibility of the Union, the Federal District, the several states and municipalities.” In RIC 565/2015’s justifications, some points of National Education Plan are highlighted: “promoting gender diversity” (p.25); “disseminating pedagogical materials that promote gender equality, sexual orientation and gender identity” (p.36); “developing, ensuring, and annually executing Gender Forums in the educational systems” (page 41); “including in book evaluations eliminatory criteria for works that convey bias regarding gender, sexual orientation, and gender identity” (p.42); “ensuring institutional conditions for the promotion of gender diversity and sexual diversity” (p.43); “developing national guidelines on gender and sexual diversity in basic and higher education” (p.45), and “expanding continuing education programs for education professionals on gender and sexual orientation diversity” (p.92). The authors of the petition argue that these issues were explicitly rejected by Congress. They thus require explanations and actions from the Minister of Education. In its long theoretical argument, the application states that “the concept of ‘gender’ is being used to promote a sexual cultural revolution of neo-Marxist orientation with the aim of extinguishing the social fabric the institution of the family”. This complaint reveals the objective of the authors’ discourses: the defense of the “family”.

These proposals all have different goals: altering the Guidelines and Bases for Education, changing the National Education Plan, changing the final document of the National Conference of Education, asking the Minister of Education for information about this conference. However, they all are based on the reaction of the Chamber of Deputies to what the proposals’ authors understand to be insubordination to the guidelines established by the two legislative houses of Congress in curbing the debate on gender and sexuality in school programs, even in the face of resistance from educators. Habermas (2012:266) affirms that in the eighteenth century, a “pedagogization of the

educational processes” began, which enabled “a system of education that was free from the imperatives and mandates of the Church and the family”. In the reaction demanding the exclusion of gender and sexuality themes from the education system, congressmen who claim to be advocates for the family, most of whom are endowed with a religious identity, seem to be seeking to recover historically lost ground.

### **Altering the ECA and other projects**

Two proposed amendments to the Child and Adolescent Statute are especially significant in relation to “gender ideology”: Bill 620/2015 and 3235/2015. In them, the struggle against so-called “gender ideology” reaches towards criminalization.

PL 620/2015, authored by Congresswoman Júlia Marinho (PSC-PA, evangelical, missionary of the Assembly of God), proposes to change “Law n° 8.069, of July 13, 1990 - Statute of the Child and Adolescent, to prevent the joint adoption by homoaffective couples”. Commenting on the decision of the Federal Supreme Court that “granted homoaffetive unions the same legal treatment given to stable unions”, the deputy claims that: “legal recognition of homoaffetive union does not automatically imply the possibility of adoption by said couples”. She continues by affirming that adoption is a “special institution that seeks to meet the interests of those who adopt. It cannot be claimed that the prohibition of adoption by homosexual couples is discrimination in access to a right”. According to the project, “adoption implies the insertion of the child or adolescent into a family, a system of vital importance for the adoptee’s adequate and healthy physical, psychological, and social development”. The proposal intends to “prevent adopted children and adolescents from being placed in a delicate situation of probable social friction. Placement [in] a family environment that does not achieve broad social acceptance can generate psychological and emotional strain at a critical stage of human development”. The proposal bases its critique on research regarding the family carried out by IBOPE,

according to which “53% of the population is against same-sex marriage”. The bill calls for a ban on homoparental adoption “until scientific studies better assess the possible impacts on children's development in such an environment”. It also calls for further congressional debate, considering the legislative body to be the “constitutionally mandated” forum for such. This legislative proposal references science in its claims to be advocating for the best interests of the child and legitimizing the exclusion of non-traditional families from adoption.

The second bill proposing changes to the ECA is especially significant for the argument of the present article regarding the criminalization of “gender ideology”. PL 3235/2015, authored by Pastor Marco Feliciano (PSC-SP), adds art. 234-A to Law n° 8,069, of July 13 1990 (the Statute of the Child and Adolescent). Article 234 of the ECA is contained in Chapter I and deals with “crimes committed against children and adolescents by action or omission”, outlined in Section II, which defines “crimes in kind”. Article 234 reads as follows: “Allow competent authorities, without presenting just cause, to order the immediate release of a child or adolescent, as soon as they becomes aware of illegal seizure.” This law includes the following article, maintaining the penalty of Article 234:

Art. 234-A To prohibit the appropriate authorities, in official normative acts, governmental guidelines, and plans and programs, terms and expressions such as ‘sexual orientation’, ‘gender identity’, ‘gender discrimination’, ‘gender issues’ and the like, as well as the authorization of the publication of these expressions in documents and didactic-pedagogical materials, with the purpose of disseminating, fomenting, inducing, or instilling gender ideology.

Punishment – six to two months detention and fine.

According to the project's justifying material, its goal is “to curb the proliferation of gender ideology,” as a reaction to the final document of the 2014 National Conference on Education that

"reintroduces gender ideology as the guideline for Brazilian education, exactly in the terms that were rejected by the National Congress". Its purpose is thus to "insert in the Statute of the Child and Adolescent a device that criminalizes any attempt to disseminate, foment, induce, or instill deleterious gender ideology" by including such terms as "sexual orientation," "gender identity", "gender issues", and their synonyms in didactic-pedagogical documents and materials, as well as in official normative acts, in governmental guidelines, plans, and programs." PL3235/2015 is in line with the objectives of PL 3236/2015, also authored by Feliciano, that changes the National Plan of Education.

There are also two legislative proposals, with themes that are not often mentioned, but which reinforce the antidiversity tendency associated with the criminalization of gender ideology: Bill 1048/2015 and Bill 41/2015.

Bill 1048/2015 (PL 1048/2015), authored by Sóstenes Cavalcante (PSD-RJ, evangelical, pastor, Assembly of God), criminalizes "contagion with an incurable disease". The project aims to "give greater effectiveness in the fight against behavior that has brought great insecurity to society". It reproduces, verbatim, an article published in the newspaper *O Globo* about a group called the "Stamp Club", composed of "HIV-positive homosexuals" who meet "on sites" in order to give tips on how to contaminate people with the AIDS virus. The report cites the "Epidemiological Bulletin, released by the Ministry of Health", stating that AIDS is advancing in both the homosexual and heterosexual population, but that the increase in "gay infection" (sic) is higher. The author states in the bill that does not only focus on "the spread of AIDS, but on the curtailment of all incurable diseases". We can safely say that this project resuscitates homosexuals as a danger to public health due to their behavior, besides alluding to a series of incurable diseases and implying that all are contagious.

The last legislative proposal to be highlighted in this article is Request 41/2015 (REQ 41/2015 CDHM), once again by Pastor Marco Feliciano (PSC-SP), addressed to the Commission on

Human and Minority Rights, which “requires the holding of a Public Hearing to hear the testimony of people who have ceased to be gay and discuss their position and the problems they have faced from then on in society”. As justification for the public hearing, Feliciano affirms that “people who left homosexuality suffered from prejudice and discrimination while they were homosexuals and after changing their orientation and/or sexual status, they suffer double prejudice.” The petition claims “widespread mistrust and discrimination against former LGBTTs.” Feliciano also says that “anti-prejudice legislation” does not include the “former LGBTT community under the State’s protection”. He continues, stating that “no government program promotes visibility and respect for former LGBTTs”. Regarding the mental health of this group, the author states that their “situation of ‘Not Being’ contributes to antisocial and even suicidal behaviors”. From the point of view of this analysis, Feliciano’s initiative reverses accusations of prejudice and discrimination, claiming that they are in fact directed against those who have left their homosexual orientation behind. This game of reversing accusations was articulated to the charges, detailed above, of intolerance and disrespect made against various performances at the São Paulo LGBT Pride March.

### **Final considerations**

Our research reveals an intense mobilization by members of the Chamber of Deputies against the rights claims of the LGBT movement.

Regarding the São Paulo LGBT pride parade, there has been a reversal of accusations: this time it is the religious who accuse the movement of religious intolerance for having mobilized Christian symbols in order to denounce homophobia. They also accuse the movement of disrespect for difference.

Another aspect that reveals the linkages between these congressional actors: a qualitative analysis of the speeches justifying their legislative propositions shows not just a reiteration

of ideas, but the literal copying of arguments. More significant still is the number of authors of certain legislative proposals: 67 for PDC 122/2015 and 51 for PDC 30/2015.

This articulation involves movements that are external to the National Congress. The Without a Party, movement demanded to participate in the public hearings regarding the National Education Plan and the National Conference of Education. It has also instructed legislative proposals denouncing “gender ideology”. This buzz phrase also appears in documents of the Catholic Church (The Keys to Bioethics handbook distributed on World Youth Day, for example) as something that must be rejected.

This mobilization has had great effects so far in the area of education by imposing the exclusion of gender and sexual diversity themes from national and local guidelines. It has also directly opposed the regulation of gender identity (using the defense of the family as an argument) in several instances, such as the inclusion of the social name in police reports and in school records, and in the shared use of public spaces separated by gender, such as restrooms.

In an article examining the debate on the civil solidarity pact in France, Butler (2003) identifies how kinship variations that stray from the model of the heterosexual family are accused of being dangerous to children. Miskolci (2007) analyzes the contemporary debates around gay marriage using the concept of moral panic, a mechanism of resistance and control of societal transformation: “moral panics emerge from social fear regarding change, especially those changes perceived as sudden and perhaps even threatening” (Miskolci, 2007:103). Carla Machado (2004) also analyzes moral panic as legitimating social control. Employing Cohen, Machado divides the “life cycle” of moral panics into phases. In the first, the central role is assumed by the media, which constitutes a given event as a social problem and offers an interpretive grid. The second phase gives meaning to the problem: it identifying facts with damage and structures attitudes against those who are identified as agents of the disorder in a process of “demonization” (sic). The third phase is action and remediation of the problem.



The first level focuses awareness on preventing the resumption of the problem through conscientization and vigilance while the second level acts in terms of social control. In the creation of the moral panics detailed above, the claims of social inclusion of the LGBT movements and feminist struggles against gender inequality, known in human rights documents as the struggle for sexual and reproductive rights, are summarized by the accusatory category of “gender ideology”. It is important to analyze what this expression means in native terms and how these actors’ justifications attempt to take ownership of concepts and authors originating in the academy, as is the case of the philosopher Judith Butler.

Four of the legislative proposals analyzed in this article cite Butler, and there are a total of five mentions of this author in the legislative proposals of 2015. The four analyzed here are: Bill 1859/2015, by Izalci Lucas Ferreira (PSDB-DF), which changes the Guidelines and Bases for Education to exclude content referring to gender ideology, gender identity, or sexual orientation; RIC 565/2015, the information request by Izalci Lucas Ferreira (PSDB-DF) and others, requesting information about the PNE; Law 3236/2015 (PL 3236/2015) by Pastor Marco Feliciano (PSC-SP), referring to the PNE and also “excluding the promotion of gender ideology”; and the bill amending the Statute of Children and Adolescent, PL 3235/2015, also by Pastor Marco Feliciano (PSC-SP), which aims to “curb the proliferation of gender ideology” and creating a mechanism to “criminalize” its dissemination. The fifth mention, which occurs in the Ministry of Education’s ordinance establishing a Consultative Committee on Gender, was not included here. Each of these legislative propositions has a different text presenting its justification. However, there are entire paragraphs repeated throughout these, even though their main authors are different: Izalci Lucas Ferreira (PSDB-DF) and Pastor Marco Feliciano (PSC-SP), being that the first congressman is Catholic and the second a pastor of the Assembly of God. There is a common narrative of argument here: both authors claim that Butler’s book *Gender Trouble* is the recent source of the formulation of the gender concept and its operationalization from

the ‘90s on. From this proposition, both authors go on to claim that gender is related to Marxism and that it proposes to destroy the family. In this reading of reality, Butler and the feminist movement are communist conspirators against the family. The other connection the authors make is to UN and UNESCO conferences, which supposedly popularized these proposals beyond a small circle of radical feminists. Thus, according to these congressmen, “gender ideology” not only presents the differences between men and women as historical and social constructs, but as a project destroying “families”, understood as such only in their traditional version.

A careful reading of the arguments presented in the speeches and legislative proposals analyzed by our research reveals the purpose of “defending the family”. Maria das Dores Campos Machado<sup>31</sup> identifies the beginning of the Christian reaction, and especially that of the Catholic authorities, at the International Conference on Population (Cairo, 1994) and the Fourth World Conference on Women (Beijing, 1995). These conferences inserted the vocabulary of sexual rights into the human rights.<sup>32</sup> Unsafe abortion was mentioned already in Cairo, generating resistance from both the Holy See and from Muslims.<sup>33</sup> According to

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<sup>31</sup> “‘Ideologia de gênero’: discurso cristão para desqualificar o movimento feminista” presentation at the 40th Annual ANPOCS Encounter, 2016.

<sup>32</sup> According to Rios (2006:75), “the First International Conference on Human Rights (Tehran, 1968) recognized the importance of women's human rights”. This expression was also used at the World Conference on Human Rights in Vienna in 1993. At the Cairo conference (1994), the action program affirms reproductive rights as a category of human rights (Rios, 2006:76). The Fourth World Conference on Women, held in Beijing in 1995, confirms the guidelines of the Cairo Conference on the Protection of Reproductive Rights, “such as sexual rights, the right to health, integrity, protection against violence, equality and non-discrimination, marriage, education, and protection against sexual exploitation” (Rios, 2016:77).

<sup>33</sup> Chapter 7 of the final document of the Cairo Conference on Population and Development, entitled “Reproductive rights and family planning,” linked reproductive rights to sexual and reproductive health. Alves (1995) emphasizes the difficulty of keeping the expressions “unsafe abortion” and “legal abortion” in the document, even in the non-consensual section. The last phrase was replaced

Machado, the first document of the Catholic hierarchy using the term “gender ideology” dates to 1998. Bracke and Paternotte (2016) also identify the Catholic Church’s reaction as beginning with the Cairo and Beijing conferences, citing the United States Christian right and some Christian and Muslim states. This reaction relies on both common prejudice and hard science discourses originating in medicine and biology to dismantle the notion of gender. The Church makes explicit its defense of a “theology of the complementarity of the sexes”. Bracke and Paternotte consider the role of the Vatican and the Catholic Church as crucial (though not unique) in building a political movement that opposes the so-called “gender ideology”. This label unites a number of concerns on the agenda of conservative Catholic activists, such as the rejection of various reproductive rights for women (especially abortion), rejection of same-sex marriage and homoparentality, the attribution of fixed gender roles for men and women and the rejection of the transgression of these roles, sexual education, and the endorsement of heteronormative ideas about sexuality (Bracke and Paternotte, 2016:148). The implementation of this agenda can be observed in the debates in the Chamber of Deputies analyzed above, which not only involve Catholic congresspeople, but several conservative politicians, most of whom have a public religious identity.

Considering the speeches and the legislative proposals analyzed in this article with respect to the subject, we highlight the expressive presence of deputies with religious identities among the authors. In our research, we did not often encounter congressional authors of bills dealing with these topics who did not identify as belonging to one or another religious group. For several of these congresspeople, religious identity is constitutive of their constitution as political figures, so much so that many of them

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by “circumstances in which abortion is not contrary to the law”. It incited the resistance of the Vatican and the Muslims to this debate, although to a lesser degree among the latter group, who permit abortions in order to save the lives of woman. The proposal was meant to situate abortion as a public health problem.

highlight the word “pastor” in their campaign materials. Among the most frequent authors were evangelical Christians like Ezequiel Teixeira (SD/RJ, New Life Project), Pastor Marco Feliciano (PSC/SP, Assembly of God), and the Catholic Izalci Lucas Ferreira (PSDB-DF). Considering both proposals and speeches, one finds in particular Catholics of the Charismatic Renewal faction such as Eros Biondini (PTB-MG), author of one proposition that adds 51 co-authors, Flavinho (Flavio Augusto da Silva, PSB-SP), and Givaldo Carimbão (PROS-AL president of the Catholic Parliamentary Front). The participation of evangelicals is fragmented into various denominations, with an absolute predominance of Pentecostal churches, in particular the Assembly of God. Looking at the authors of speeches and the first authors of legislative proposals, however, we did not find anyone connected to neopentecostal churches like Universal Church of the Kingdom of God. Exceptions among the religious, in that they come out in favor of sexual diversity, are Chico Alencar (PSOL-RJ) and Luiz Couto (PT-PB), both Catholics.

According to Montero (2016), in an article that discusses the dissolution of the religious, Bourdieu affirms that the religious field has incorporated many new actors and, in this field, the control of private life and the orientation of the worldview are at stake (2016:140). Criticizing Bourdieu’s concept of the “religious field”, Montero proposes a

New approach in which ‘the public religions’ are no longer understood as the (improper) presence of religion in the public field, but rather as different forms of production of publics and publicity by religious actors via diverse technologies/artefacts of visibility (Montero, 2016:129-130).

Montero wonders if the concept of the “religious field” can account for the contemporary transformations secular societies are undergoing, in which religious agents seem to be everywhere (Montero, 2016:135). Considering our research material, this seems to be very distressing to women's rights and LGBT advocates, given

that religious actors always seem to be involved in confiscating these groups' rights. According to Montero (2016), actors continually negotiate the boundaries of this field when it comes to defining the boundaries and terms of debate of a public issue. In doing so, they alter the very meaning of what is understood as religious. In view of Montero's remarks regarding the public controversies surrounding the free expression of sexuality, religious agents' mode of engagement, and the positions they hold in the field, their opinions only gain visibility to the degree that they have strength – mobilization, in other words –, since it is pressure groups that forge opinions. Taking up the theme of this article, the creation of a given statement as “gender ideology” functions as a category of accusation that generates mobilization in various instances, particularly with regards to the regulation of life within the Legislature, but also with special concern for schools and institutions related to the transmission of knowledge and, in particular, charges with the education of children. This is the reason for the intense reaction regarding the National Conference of Education's recovery of the gender and sexuality content refuted by the two legislative houses of Congress. This reaction is also related to government initiatives in implementing public policies that combat homophobia and promote respect for sexual diversity (Junqueira, 2009; Vital da Cunha; Lopes, 2013). The most compelling criticisms of the resolutions of the Secretariat of Human Rights regarding the regulation of gender identity are based on the violation of the rights of parents to control their minor children. It is possible to understand this aspect of the reaction according to Vianna's (2005) analysis of the fundamental legal inequality that separates adults from minors. This is the

...tension that exists between the concept of the child or adolescent as an individual with rights that are analogous to those of adult individuals, and their peculiar condition as people understood to be “under formation” (Vianna, 2005:17-18).

Vianna demonstrates how children and adolescents are special subjects of law, with this legal inequality reconfigured under the perspective of protection, which cannot be separated from the choice of those responsible for the children. This, in turn, implies the production of “control measures” such as those presented in the legislative proposals detailed above. In these, the family hierarchy appears more consistently than arguments that question the lack of a natural basis for gender identities that are discordant with social norms. If we consider congresspeople who are authors of speeches and legislative proposals as collective actors, it is possible to affirm with Montero (2016:144) that

...collective actors do not exist prior to the narratives and performances that make certain themes public. To the contrary: it is the collective activity of highlighting certain confrontations that construct certain actors as “religious” and religion as public.

By taking on the mantle of family advocates, actors with a publicly recognized religious identity reconfigure the notion of the religious, demonstrating that, in the opposition between sacred and profane things (Durkheim, 1989), the family is sacred in the debate on sexual expression and gender, while the life of the fetus is sacred when it comes to abortion.

Analysis of the documents presented by the Catholic Church as guides to moral conscience and practices, such as *The Keys to Bioethics* handbook distributed at World Youth Day, shows the doctrinal concern in substantiating the natural character of sex, criticizing the constructivist perspective and “gender ideology” (an accusatory category, as stated above). On the other hand – and quite surprisingly, compared to the focus on abortion in this research project and the previous project – there was very little mention of scientific data refuting said ideology. For example, in the draft legislative decrees that questioned the resolutions of the Secretariat of Human Rights that established the adoption of the social name in police reports and the use of the bathrooms

according to gender identity, only one proposal – that of Congressman Marco Feliciano – criticized the inconsistency between one's chromosomes and one's chosen bathroom. Likewise, a bill prohibiting adoption by same-sex couples argued that this would harm children and that it would be in the best interests of the child to prevent such adoptions in order to prevent discrimination against them due to their families. By contrast, in the justifications of the legislative proposals criticizing "gender ideology", complementarity of the "sexes" is defended as something given and inherent, without citing any scientific evidence in order to obtain legitimacy.

The concept of sexual politics may be the key to understanding this conflicting scenario:

The concept of sexual politics permits us to simultaneously interpolate multiple dimensions of social control of the erotic and the sexual while exploring the often conflict-ridden co-existence of distinct and often contradictory styles of moral regulation, understood here as unique sets of techniques for the production of subjects or, in other words, of people who have a certain understanding of themselves and a certain corporality (Carrara, 2015:325).

The legislative debate presented allows us to use speeches and proposals in the Chamber of Deputies to observe a confrontation of moralities, translated into disputes over modes of moral regulation. This can be seen in the reaction to the performance of the crucifixion in the São Paulo LGBT Pride Parade, in the exclusion of cross-curricular content related to gender and sexuality in the National Education Plan, in the refutation of the possibility of expressing gender identities that are different from the norm in the shared spaces of schools. There is a fierce fight against choices that would be characteristic of free and autonomous subjects according to the individualist configuration of values (Dumont, 1997) pointed out at the beginning of the article, or according to the principles of personal autonomy that support reproductive rights (Corrêa and Petchesky, 1995). The mobilization

in the Chamber of Deputies that we have analyzed here reaffirms a process of discrimination, as explained by Louro and Junqueira:

Those subjects that, for whatever reason or circumstance, escape norms and promote a discontinuity in the sex/gender/sexuality sequence will be understood as a minority and shoved to the margins when it comes to the preoccupations of a curriculum or education that seeks to address the majority. Paradoxically, these marginalized subjects continue to be necessary, as they serve to circumscribe the outlines of those who are normal and thus are really the important subjects (Louro, *apud* Junqueira, 2009:14).

Some subjects matter and others do not. The denial of the possibility of diverse existence reaffirms the privileged place, in moral terms, that the agents of this conservative mobilization propose when they not only exclude but criminalize “gender ideology” according to the project of Pastor Marcos Feliciano, mentioned above.

This study deals with the topic of sexual diversity in the speeches given by congresspeople in the Chamber of Deputies and in the legislative proposals they made in 2015, and not in the context of education, as in the text of Guacira Lopes Louro cited above. In spite of this, when analyzing most of the discourses and proposals raised against sexual diversity, one perceives that this perspective clearly marginalizes subjects that do not fit the norm and that promote discontinuity in the sex/gender/sexuality sequence. It declares that these subjects should be pushed to the margin of citizenship and that their claims must be obliterated in order to defend a hegemonic model of the family that claims to be the only legitimate model. In the name of preservation of the family, moral panics are spreading (Miskolci, 2007). These are weapons that seek to mobilize public opinion against diversity of expression of sexual freedom.

Este estudo aborda o tema da diversidade sexual nos discursos proferidos por parlamentares na Câmara de Deputados



e nas proposições legislativas do ano de 2015, e não no contexto da educação, como no texto de Guacira Lopes Louro citado. A despeito disso, ao analisar a maioria dos discursos e de proposições levantados contrários à diversidade sexual, percebe-se essa perspectiva que marginaliza sujeitos que não se enquadram na norma e promovem a descontinuidade na sequência sexo/gênero/sexualidade: eles devem ser postos à margem da cidadania e suas reivindicações devem ser obliteradas em função da defesa de um modelo de família hegemônico que se pretende o único legítimo. Em nome da preservação da família, disseminam-se pânico morais (Miskolci, 2007). Essas são armas de mobilização da opinião pública contra a diversidade de expressão da liberdade sexual.

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