



[Unpublished articles]

Queering legal cultures in the late 20th century Brazil: redemocratization and the struggle for sexual rights

Culturas legais Queer no Brasil do final do século XX: redemocratização e luta pelos direitos sexuais

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Article received on 09/12/2024 and accepted on 05/25/2025.



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Resumo

O processo de redemocratização no Brasil foi percebido por grupos organizados como uma oportunidade estratégica para reivindicar mudanças sociais. O Movimento Homossexual Brasileiro (MHB) teve um papel central na luta por direitos sexuais, consolidando-se como protagonista nos esforços pela diversidade sexual no país. Este artigo analisa as contribuições do MHB para a transformação do direito a partir de culturas jurídicas queer no final do século XX. Com base na análise de edições do jornal *Lampião da Esquina* (1978–1981), atas da Assembleia Nacional Constituinte (1987–1988) e documentos correlatos, investigamos como o MHB articulou demandas pelo reconhecimento constitucional da não discriminação por orientação sexual. Argumentamos que sua atuação foi decisiva para a superação de estereótipos legais e para a reconfiguração do sistema jurídico. Por fim, discutimos o avanço de pesquisas em teorias queer no campo do direito, com potencial transformador em um contexto de desigualdades estruturais.

Palavras-chave: Movimento Homossexual Brasileiro; Culturas Queer; Redemocratização.

Abstract

Brazil's redemocratization process was perceived by organized groups as a strategic opportunity to demand social change. The Brazilian Homosexual Movement (MHB) played a central role in the struggle for sexual rights, becoming a key actor in the fight for sexual diversity in the country. This article examines the MHB's contributions to legal transformation through queer cultures in the late 20th century. Drawing on an analysis of *Lampião da Esquina* (1978–1981), records from the National Constituent Assembly (1987–1988), and related documents, we investigate how the MHB advocated for the constitutional recognition of non-discrimination based on sexual orientation. We argue that its actions were crucial in dismantling legal stereotypes and reimagining the legal system. Ultimately, this article reflects on the increasing significance of queer legal scholarship in Brazil and its transformative potential for rethinking law in the context of structural inequalities.

Keywords: Brazilian Homosexual Movement; Queer Cultures; Redemocratization.



Introduction

In fact, this violence, whether directed at women or at men, stems from chauvinism [*machismo*], which is deeply regrettable. In my point of view, in the Constitution, what can be done is what we are demanding, that is, [*prohibit*] discrimination based on sex, which already exists and will most certainly be reaffirmed, [*and*] with justice, also prohibit discrimination based on sexual orientation. (BRASIL, 1987, p. 116, free translation)

In 1987, lawyer and activist João Antônio Mascarenhas submitted a proposal to the Brazilian National Constituent Assembly advocating for an explicit constitutional prohibition of discrimination based on sexual orientation. This proposal represented more than a formal demand from the Brazilian Homosexual Movement (*Movimento Homossexual Brasileiro* – MHB), it symbolized a decade-long struggle to affirm sexuality as a fundamental individual right and to dismantle entrenched legal and social stereotypes.

At that time, homosexuality faced stigmatization not only from conservative sectors but also from segments of the revolutionary left. It was within this hostile political and cultural climate that the MHB emerged as a pioneering force in the fight for sexual liberation, playing a central role in shaping the broader movement for sexual diversity in Brazil (MENIN et al., 2020, p. 30).

This article examines the contributions of the MHB to queering Brazilian legal cultures during the late twentieth century. We begin by contextualizing the legal framework that historically enabled institutionalized discrimination, focusing particularly on the criminalization of vagrancy and the ambiguous legal standards related to morality and decency.

Drawing on issues of *Lampião da Esquina* (1978–1981), a groundbreaking newspaper, we explore the emergence of a distinct cultural and political identity that challenged dominant legal narratives. We trace the origins of the *Movimento Homossexual Brasileiro* (MHB) and its activism during Brazil’s authoritarian regime, while also analyzing the movement’s engagement with the 1987–1988 National Constituent Assembly through Assembly records and related documents.

In this article, we employ the acronyms LGBT and LGBTQI+ with attention to contextual and historical relevance, seeking both inclusivity and precision. The term LGBT—encompassing lesbian, gay, bisexual, and transgender identities—is



predominantly used when referring to historical movements and early activism in Brazil. Conversely, LGBTQI+, which includes queer, intersex, and other diverse sexual and gender identities, reflects the expanding spectrum recognized in contemporary legal scholarship and social discourse.

Despite persistent threats and censorship, *Lampião da Esquina* served as a vital tool of resistance, fostering legal and political discourse around sexuality and advocating for the protection of vulnerable groups during Brazil's democratic transition. The MHB's early engagements with the legislative sphere—particularly the campaign to declassify homosexuality as a pathology and the proposal to the Constituent Assembly—marked historic milestones in the pursuit of sexual rights in Brazil.

1. Social Movements' Struggle Against the Authoritarian Regime

1.1. 'Vagrant' Bodies: Dictatorship-Era Stereotypes of Morals and Good Manners

The 21-year Brazilian civil-military dictatorship relied on politics of terror and oppression, upheld by a complex legislative framework tailored to support authoritarian rule. The group that seized power in the 1964 coup drew from a military tradition rooted in Brazil's involvement in the Second World War. They established a doctrine of warfare aimed at eliminating opponents of the regime through legal ambiguity (PEDROSO, 2017). Although sexual expression was not explicitly criminalized, the law included open-ended clauses that enabled such persecution. Members of the LGBT community frequently became targets of arbitrary violence, torture, and unlawful imprisonment, often under accusations of "vagrancy" (*vadiagem*) or "indecent exposure" (*atentado ao pudor*).

The crime of vagrancy had been established in the 19th-century Brazilian legal system. The 1890 Criminal Code addressed it in Chapter XIII, titled "Of Vagrants and Capoeiras," which curtailed the right to free movement and criminalized the Afro-Brazilian art of capoeira. Article 399 stipulated imprisonment of fifteen to thirty days for individuals who ceased practicing a lawful trade or profession and, lacking both livelihood and permanent residence, engaged in occupations either prohibited by law or "manifestly offensive to morals and good manners."

Similarly, Article 282 defined the offense of "public outrage to modesty," which criminalized behaviors, gestures, or actions considered obscene or offensive to public



decency and capable of “scandalizing society.” Yet what constituted a “scandal”? These vaguely defined legal terms allowed authorities to classify any socially (or politically) unacceptable behavior as a breach of morality. This open-ended clause would later be revived and exploited to its most repressive extent.

The rhetoric of “offending morals and good manners” continues to reflect a legacy of legal stigmatization in Brazilian society, with enduring negative social and juridical consequences for the LGBTQIA+ population. This language has been used to demonize non-normative sexualities, framing any expression that diverges from dominant masculine norms as obscene or socially destructive. It contributed to building up the notion of “wandering” or “vagrant” bodies—those considered as deviant by law, and thus vulnerable to state and police violence.

While the 1940 Criminal Code did not retain the same terminology, the dictatorship-era *Law of Criminal Contraventions* (Decree-Law No. 3.688/1941) reinstated the offense of vagrancy. It also prohibited bail, rendering it impossible for many individuals to secure release once detained. This legal tool served to reinforce military conservatism, especially in the repression of *travesti* individuals who, excluded from formal employment, often worked on the streets (MENIN et al., 2020, p. 34). In Brazil, *travesti* individuals are part of the wider transgender spectrum and typically refer to individuals assigned male at birth who embrace and present a feminine gender expression. Unlike some other transgender identities, *travesti* individuals often cultivate a unique cultural and political identity that highlights their distinct social experiences within Brazilian society.

The *rondões*—militarized police patrols—were notorious for exerting control through violence, particularly targeting specific social groups and normalizing mass arrests under the guise of police investigations (MEMORIAL DA RESISTÊNCIA DE SÃO PAULO, 2021, p. 35). During this period, organized social movements prioritized denouncing and resisting the civil-military dictatorship. Although politicized expressions of gay and lesbian identities occurred as early as the 1950s, the homosexual movement began to coalesce in the late 1970s. The 1980s and 1990s witnessed a broader mobilization, especially with the struggle against the HIV/AIDS epidemic (IRINEU, 2014, p. 165).

According to Nathalia A. Pedroso (2017), in the initial stage of the dictatorship (1964–1967), leftist political activists, particularly those who openly opposed the coup,



were the primary targets of persecution. Repression intensified in 1968 with the enactment of Institutional Act Number 5 (AI-5), which remained in force until 1978. Around the same time, Decree No. 898/69 codified crimes against national security.

AI-5, known as the “coup within the coup,” institutionalized extreme state violence. It dissolved the National Congress, suspended constitutional rights, and granted unchecked power to the executive branch. This act gave a moralizing veneer to political repression, which was especially directed at LGBT individuals, seen by the regime as a “subversive threat” to social order. The *Final Report of the National Truth Commission* (CNV) confirmed that the dictatorship pursued a systematic policy to eliminate diversity and non-conforming identities (PEDROSO, 2017, p. 23).

By the 1980s, amid an escalating debt crisis, many activist groups found it increasingly difficult to sustain operations. The transition to democracy, while welcome, also led to a degree of demobilization, as the immediate threat of authoritarianism subsided. Only a handful of organizations remained active, including GALF (*Grupo Ação Lésbica Feminista* – Feminist Lesbian Action Group), an autonomous lesbian group that was not significantly involved in legislative advocacy back then (DEHESA, 2010, p. 122). Internal tensions in early LGBT activism often revolved around differing approaches to gender, race, and visions for social transformation (FACCHINI; CARMO; LIMA, 2020, p. 5).

Activism around sexual rights during this period was primarily, but not exclusively, led by the gay male community. The Brazilian Homosexual Movement (MHB) was formally established in 1978, the same year that the influential newspaper *Lampião da Esquina* began circulation and the activist group SOMOS (We Are) was founded in São Paulo.

SOMOS, formed by intellectuals from the University of São Paulo’s Faculty of Social Sciences, emerged in response to the broader left’s failure to address LGBT concerns, focusing instead on traditional working-class struggles. Although initially composed of men, the group later welcomed activists who identify as lesbian (GAMA, 2021, p. 5).

In its next phase, LGBT mobilization shifted toward active resistance. A prominent example was opposition to “cleansing operations” (*rondões*) led by police chief José Wilson Richetti, which involved the arrest and assault of *travesti* and homosexual individuals, and sex workers. During this time, *Lampião da Esquina*, with its explicitly anti-authoritarian stance, played a key role in informing the community about legal abuses, and advocating for civil rights. The newspaper became a vital space for denouncing



violence and discrimination while fostering a sense of collective identity and legal consciousness.

1.2. Civil Society in Action: Mobilization and Resistance through *Lampião da Esquina*

As an alternative newspaper published in Rio de Janeiro between 1978 and 1981, *Lampião da Esquina* embodied a form of ironic and confrontational journalism. It challenged various forms of state and social violence against vulnerable groups and served as a platform for sharing homosexual experiences, perspectives, and political activism in Brazil. While primarily focused on exposing the problems posed by heterosexism, the newspaper also addressed issues such as racism, drug use, the decriminalization of abortion, and the everyday struggles of sex workers.

The newspaper was founded during the cultural and political upheaval of late 1970s Brazil, a time marked by slow political liberalization under the military dictatorship. The visit of Winston Leyland, editor of the influential American gay magazine *Gay Sunshine*, in 1977 served as a catalyst for a group of Brazilian homosexual journalists, intellectuals, and artists—initially gathered around João Antônio Mascarenhas—to create a publication specifically aimed at the homosexual community (QUINALHA, 2021).

Among the founders were João Silvério Trevisan, Aguinaldo Silva, and Peter Fry, who financed the project through personal contributions and a fundraising campaign conducted by mail. This support allowed them to release issue zero in April 1978. The newspaper, published in tabloid format, had a monthly circulation of up to 15,000 copies and continued until June 1981 (QUINALHA, 2021).

Homosexual activism played a critical role in advancing the debate around sexuality as a fundamental right within the legal sphere. *Lampião* was not merely a tool of resistance to a white, heterosexual, and patriarchal dictatorship—it actively contributed to the deconstruction and reconstruction of social and legal cultures. Sexuality was treated openly as part of a healthy and legitimate aspect of life, with considerable attention given to male sexual liberation and its broader societal implications.

A culture affirming sexual rights and resisting the demonization of pleasure and sexual orientation was being forged. In a 1979 issue of *Lampião*, artist Darcy Penteado explored the idea of a distinct homosexual culture emerging “dissociated from the



traditional structures of the system” and advocated for the unity of organized groups and minorities as a strategy for survival (LAMPPIÃO DA ESQUINA, n. 19, December 1979, p. 9).

This search for a new, more inclusive morality rejected the traditional values of the dominant class. Writer Aristóteles Rodrigues asserted in an earlier issue that “a new morality is needed for the homosexual, this strange creature, condemned to biological sterility,” who is “anatomically and physiologically identical to the straight,” but not equal “just as Black people are not equal to white people, and women not equal to men”. Each of these groups, argued Rodrigues, must develop a morality specific to their own psychological and social realities (LAMPPIÃO DA ESQUINA, n. 15, August 1979, p. 3).

Lampião itself faced significant repression. The newspaper was the subject of constant attacks and a federal police investigation, ultimately archived in December 1979, although not without attempts to prosecute it under Article 17 of the Press Law (Law No. 5,250, 1967). This article criminalized offenses against “morals and good manners,” punishable by up to one year in prison. In response, a *Lampião* Defense Committee was organized by the activist group SOMOS (LAMPPIÃO DA ESQUINA, n. 19, December 1979).

Despite its radical stance, *Lampião* acknowledged tensions within the broader social movements. For example, the newspaper frequently reported on the right of *travesti* individuals to circulate freely in public spaces. In 1979, following multiple protests, the São Paulo Court of Justice acknowledged this right— albeit conditionally, stipulating that it could be exercised only if it did not “disturb public morality” (LAMPPIÃO DA ESQUINA, n. 1, May–June 1978, p. 9).

The newspaper also faced criticism for its portrayals of Brazilian *travesti* individuals (LAMPPIÃO DA ESQUINA, n. 12, May 1979, p. 11), revealing deeper identity conflicts between the gay and *travesti* communities (LAMPPIÃO DA ESQUINA, n. 21, May 1980, p. 3). These divisions would later resurface in the MHB’s legislative engagement efforts.

Identity-building debates were also centered on terminology. The use of the term “gay” and its adaptation into the Portuguese “guei” to refer to “happy people by nature” faced criticism. In a context marked by frequent violence and death, many felt there was little to be happy about. Columnist Carlos C. argued for a “green and yellow” (Brazilian) identity to counter what he saw as excessive Americanization of the movement (LAMPPIÃO DA ESQUINA, n. 19, December 1979, p. 15).



The SOMOS group frequently used the newspaper to reflect on its clandestine years and the ongoing challenges of societal acceptance (LAMPPIÃO DA ESQUINA, n. 12, May 1979, p. 2). In January 1980, *Lampião* reported on the first National Gay Meeting, held at the Brazilian Press Association, which brought together 60 participants from São Paulo, Guarulhos, Sorocaba, Brasília, Belo Horizonte, Caxias, and Rio de Janeiro.

Journalist Francisco Bittencourt called for full democratic participation, arguing that “if the democracy to which we are entitled is the one that is there, I propose that we make use of it totally, in all its potentialities.” Bittencourt encouraged minorities to begin preparing candidacies for the 1982 elections, affirming that it was possible to elect representatives to Congress and state legislatures (LAMPPIÃO DA ESQUINA, n. 20, January 1980, p. 2).

A few months later, in April 1980, *Lampião* covered the Brazilian Meeting of Homosexuals, held at the Ruth Escobar Theater in São Paulo and attended by around 600 people. Groups present included SOMOS (SP, RJ, Sorocaba), Lesbian-Feminist Action (SP), EROS (SP), LIBERTOS (Guarulhos), AUÊ (RJ), and BEIJO LIVRE (Brasília), along with individuals from the cities of Vitória, Goiânia, Curitiba, and Horizonte. Topics discussed included chauvinism, sexual roles, repression of homosexuality in prisons, and lesbian visibility.

Several collective resolutions from the meeting shaped the movement’s next steps. Each group formed a committee to evaluate the advantages and disadvantages of legalizing and institutionalizing activist organizations. Participants also agreed to strengthen intergroup communication through regular meetings, newspapers, and bulletins. They planned to engage supportive doctors, psychologists, and psychiatrists to produce scientific studies on homosexuality.

Perhaps the most ambitious goal involved creating committees within each group to develop legal strategies for constitutional reform—specifically, to secure protection against discrimination based on sexual orientation in the list of individual rights. Participants also sought to challenge the classification of homosexuality as a mental disorder in the International Classification of Diseases (ICD) maintained by the World Health Organization (WHO) (LAMPPIÃO DA ESQUINA, n. 24, May 1980, p. 7).

They planned to form a commission of doctors and lawyers to pressure the WHO, the Pan American Health Organization, and the Brazilian Bar Association (OAB). They also decided to send a letter to the Brazilian Associations of Psychiatry and Psychology to



denounce the discriminatory treatment of homosexuals and to report cases of unjust exclusion from employment opportunities to the Psychology Council.

Antônio Mascarenhas eventually took on the responsibility of advancing the constitutional agenda. However, internal conflicts within the movement became increasingly apparent. In its penultimate issue, the *Lampião* editorial board published a statement denying that the editorial committee had appointed Mascarenhas as its representative to the International Gay Association Congress in Italy. According to the editorial committee, Mascarenhas had introduced himself as a newspaper editor, even though he had previously resigned from the board after clashing with its editorial direction (LAMPIÃO DA ESQUINA, n. 36, May 1981, p. 3).

The editors characterized the episode as “regrettable” and an act of “bad faith” (LAMPIÃO DA ESQUINA, n. 36, May 1981, p. 3). Despite this situation, Mascarenhas remained one of the journalists targeted by the federal police under accusations of offending public morals and good manners through the newspaper. Mascarenhas later became the figure responsible for bringing the demands of the Brazilian Homosexual Movement to the National Constituent Assembly.

2. Legislative Efforts and the 1987–1988 National Constituent Assembly

During the 1980s, the Brazilian Homosexual Movement (MHB) concentrated its activism on addressing the HIV/AIDS crisis. Homosexual groups were among the first to mobilize around this issue. This initial phase of the movement involved nationwide meetings that united activists from various states to prioritize and unify their demands. Their primary objectives included advocating for the removal of homosexuality from the World Health Organization’s (WHO) International Classification of Diseases (ICD) and proposing a constitutional amendment to prohibit discrimination based on sexual orientation.

Activists framed community members as political subjects through campaigns challenging the pathologization of homosexuality. This approach, along with the proposed constitutional amendment, the fight against the HIV/AIDS epidemic, and efforts to combat lethal violence, brought attention to sexual orientation as a significant category of mobilization. They aimed to counter essentialist perspectives centered on the social



construction of subjectivity and desire and sought to replace the term "sexual option," which implied choice, with "sexual orientation," emphasizing inherent identity.

In response to MHB's advocacy, the Federal Council of Medicine (CFM) suspended the classification of homosexuality as a disease on February 9, 1985, a significant victory, especially considering that the WHO only removed homosexuality from its list of mental disorders in 1990. Subsequently, March 17th became recognized as the International Day Against Homophobia, Transphobia, and Biphobia.

Concerns about discrimination extended beyond MHB to women's, feminist, and Black movements. These groups viewed a constitutional framework an instrument to protect vulnerable social groups and influence future judicial decisions, particularly as the Brazilian Federal Supreme Court (STF) transitioned into a constitutional court. The 1988 Constitution established principles of equality and non-discrimination. Article 5 prohibited discrimination of any kind, affirming formal equality for all and stipulating equal rights and duties for men and women. Article 7 guaranteed equal remuneration, prohibiting discrimination based on sex, age, color, and marital status, while Article 6 protected maternity.

Although the Constitution formalized many women's rights and addressed sex-based discrimination, it did not explicitly define sexual and reproductive rights or include "sexual orientation" as a protected category. Nonetheless, these mobilization efforts marked the first attempts at dialogue between the homosexual movement and the legislative branch.

The National Constituent Assembly was convened in November 1985 (via Constitutional Amendment No. 26) and officially began its activities in March 1987. The parliamentarians elected in 1986 formed a heterogeneous group: 15% changed party affiliation between 1987 and 1988, and 49% were newcomers to Congress. Of the 559 parliamentarians, only 11 were Black (approximately 2%), and 26 were women (5%). Despite progress compared to the previous legislature, no senators or deputies openly identified as gay, lesbian, bisexual, or transgender. This underrepresentation compelled social movements to engage in lobbying and negotiation strategies with parliamentarians

According to Rafael de la Dehesa, two groups founded in 1985 played pivotal roles in the National Constituent Assembly. The Pink Triangle (*Triângulo Rosa*), established in Rio de Janeiro (having Mascarenhas as one of its founders), and Lambda, created in São Paulo by City Councilwoman Irene Cardoso (PT, Workers' Party), with support from former



SOMOS activists and members of an HIV/AIDS support group. As a prominent figure in the gay community, Mascarenhas presented the proposal to constitutionally prohibit discrimination based on sexual orientation to the Assembly.

Two commissions within the National Constituent Assembly evaluated the proposal: the Social Order Commission (subcommittee on Blacks, Indigenous Peoples, People with Disabilities, and Minorities) and the Rights and Guarantees of Man and Woman Commission (subcommittee on Individual Rights and Guarantees), in addition to the systematization commission. MHB claimed that the new constitutional text (Article 5) should prohibit discrimination based on sexual orientation, encompassing heterosexuality, bisexuality, and homosexuality.

Maria Clara Brito da Gama's (2021) analysis reveals that twenty-two parliamentarians supported the proposal, presenting amendments and statements on the topic. Among them were four feminist representatives: Black activist Benedita da Silva (PT-RJ), Raquel Cândido (PFL-RO), Rita Camata (PMDB-ES), and Wilma Maia (PDS-RN). The remaining supporters, primarily from the PT, PDT, PFL, PL, and PMDB parties, held progressive views. Conversely, twenty-two parliamentarians openly opposed the proposal, predominantly religiously affiliated individuals with conservative stances who advocated policies such as the death penalty, lowering the age of criminal responsibility, and criminalizing abortion.

Regarding the Assembly's ideological composition, 12% of parliamentarians aligned with the right, 24% with the center-right, 32% with the center-left, and 9% with the left. The evangelical caucus, comprising thirty-four members, formed the fourth-largest voting bloc after the PDM, PDS, and the Liberal Front Party (PFL). These religious lawmakers joined a larger bloc, the *Centrão* (Big Center), supported by then-President José Sarney and accounting for 52% of the Assembly's members.

Evangelical parliamentarians prioritized "moral issues," staunchly opposing abortion. LGBT activists found more support among left-wing parties such as the Workers' Party (PT) and the Democratic Labor Party (PDT), although most lawmakers did not prioritize these issues.

Mascarenhas's speech on sexual orientation highlighted the daily violence experienced by homosexual individuals in Brazil. The lawyer drew parallels between discrimination based on sex, which affects women, and discrimination based on sexual orientation, which affects homosexual individuals—an argument endorsed by Deputy



Benedita da Silva. The National Council for Women's Rights (*Conselho Nacional dos Direitos da Mulher*, CNDM) strongly supported this perspective.

Feminist and women's movements engaged with the Constituent Assembly through the women's caucus, a cross-party alliance of female representatives who organized a comprehensive agenda for women's rights, facilitated by the CNDM's actions and campaigns. Their mobilization succeeded in securing most of their demands, including paternity leave, extended maternity leave, and women's rights to land ownership. However, they did not extensively address sexual rights, partly due to internal disagreements and concerns that controversial discussions on sexuality might provoke backlash. Mascarenhas' main argument was based on the principle of equality:

This is an unprecedented case in Brazil, although it is common in Scandinavian countries, the Netherlands, Canada, and the United States. Our demand is simple and unique: we seek an explicit prohibition of discrimination based on sexual orientation in the provision that should replace Article 153, § 1 of the current Constitution.

[...]

The idea of prohibiting discrimination based on sexual orientation only through ordinary law does not seem fair to us. We believe that would itself be a discriminatory act. It would undermine the principle of equality by implying that some forms of discrimination are more legitimate than others, some deserving a place in the Federal Constitution, while others do not. That would be our case. We would continue to be treated as less equal than others. (BRAZIL, 1987, p. 113, free translation)

Mascarenhas argued that sexism underpinned discrimination against both women and homosexual individuals, also pointing out distinctions between men who identified as *gay* and *travesti* individuals, and asserting that gender identity was not a widespread issue in Brazil. Mascarenhas criticized the media for conflating the two groups, stating that "in the press, we see the establishment of a false synonymy between the homosexual and the *travesti*-prostitute" (BRAZIL, 1987, p. 115).

This argument highlights the late interaction of non-hegemonic (i.e., non-cisgender) gender identities into the homosexual movement. In the 1980s, *travesti* and transsexual movements were not part of MHB. *Travesti* organizations began participating in community meetings and events in the mid-1990s, with transsexual individuals joining in the 2000s. These movements organized in response to police violence and the fight against HIV/AIDS.



The MHB led advocacy efforts within the gay community, This helped establish a distinct identity and clarify key concepts related to the community's rights. However, this approach was somewhat insular, limiting collaboration with other groups advocating for sexual rights.

This period a conflict of identity that coincided with broader debates on citizenship during the Constituent Assembly. The Pink Triangle became a symbol of resistance against medical norms, legal standards, and traditional conceptions of femininity and masculinity. The group sought recognition of LGBT civil rights, contributing significantly to developing a more inclusive perspective of citizenship.

Rafael Carrano Lelis (2022) notes that the mobilization leading up to the Constituent Assembly, spearheaded by the Pink Triangle, was intense and involved substantial advocacy efforts. Despite this, intersections between sexuality, gender, and race remained underexplored in the constitutional and democratization processes, even though discussions on sexual identity had been ongoing since the movement's inception.

Challenges faced by the mobilization included limited access for civil society organizations to Congress and the impacts of the HIV/AIDS epidemic, which hindered broader representation. The prolonged efforts against the authoritarian regime also led to fatigue among activist groups during the democratization process. The HIV/AIDS epidemic demanded significant energy, especially as conservative narratives labeled it a "homosexual cancer" (Lelis, 2022).

The MHB's political advocacy frustrations during the Constituent Assembly laid the groundwork for expanding the social movement and fostering institutional activism in subsequent years. Following unsuccessful efforts, activists redirected their focus to advocating for sexual rights at state and municipal levels.

In 2003, a cross-party caucus on LGBTQI+ citizenship was formed in the National Congress, expanding to include 16 senators and 199 deputies by 2007. By that year, Brazil had established a substantial body of local legislation on sexual orientation, aligning with global standards. Approximately one hundred municipalities and twelve states had enacted anti-discrimination laws based on sexual orientation (Lelis, 2022).

During the 1990s and 2000s, processes of social and state participation intensified, deepening the definition of political subjects within social movements. Democratization and the development of dialogue mechanisms between society and the state facilitated the institutionalization of organizations. Subsequently, identities



diversified, leading to intensified visibility disputes within social movements. This reconfiguration of political arenas favored the social recognition of gender and sexuality as intersecting categories.

3. Queer Studies and Law in Brazil

In the early 1990s, only about sixteen LGBT groups were active in Brazil. However, the number of organizations grew significantly during the second half of the decade. By January 1995, the VIII Brazilian Meeting of Gays and Lesbians, held in Curitiba, brought together thirty-one groups that went on to found the Brazilian Association of Gays, Lesbians, and *Travestis* (ABGLT).

Another major milestone for visibility and public engagement came with the emergence of Pride Parades. The decision to establish these parades as official events followed the march held during the IX Brazilian Meeting of Gays, Lesbians, and *Travestis* in São Paulo in February 1997 (Reis, 2012, p. 3). These events played a crucial role in promoting the inclusion of LGBT communities in public life, raising awareness within civil society, and highlighting the need for legal reforms and responses to violence. They also contributed to rethinking dominant concepts of gender and sexuality.

According to Freitas (2021, p. 18), gender studies in Brazil have expanded considerably in recent decades. Prominent academic centers supporting this growth include the Federal University of Santa Catarina (UFSC), through its Interdisciplinary Center for Gender Studies (*Núcleo Interdisciplinar de Estudos de Gênero*); UNICAMP, through the journal *Cadernos Pagu*; the Federal University of Bahia (UFBA), which offers a Bachelor's degree in Gender and Diversity Studies; and the Federal University of Rio de Janeiro, which launched the *Journal of Feminist Studies* in 1992. This academic mobilization has opened space for non-traditional, non-binary perspectives on social phenomena and enabled legal analysis beyond cisgender, heterosexual, and male-centered frameworks.

Larissa Pelúcio (2014) explains that queer theories in Brazil have primarily circulated through academic institutions, especially via the work of philosopher Judith Butler. Unlike in the United States, queer studies in Brazil did not emerge from grassroots political activism but instead took place inside the universities. This distinction stems from



historical, political, and cultural factors that shape how knowledge is produced and localized in Brazil.

In Portuguese, the term *queer* lacks the pejorative connotation it holds in English. Within academic settings, it is not offensive, sounds neutral, and carries little emotional weight. As a result, it does not provoke the same discomfort it does in English-speaking contexts. Pelúcio (2014) even suggests adopting more provocative terms in Portuguese that reflect a decolonial perspective.

The educator Guacira Lopes Louro made significant contributions to the development of queer studies in Brazil. During a trip to New York, she encountered the works of Pierre Bourdieu and Joan Scott, which deeply shaped her theoretical approach. Following this experience, she published several influential texts, including *The Educated Body: Pedagogies of Sexuality (O Corpo Educado: Pedagogias da Sexualidade)* in the 1990s. Louro also played a key part in introducing Brazilian readers to previously untranslated works by Judith Butler and other foundational theorists.

In her article *Queer Theory – A Post-Identity Politics for Education (Teoria Queer – Uma Política Pós-Identitária Para A Educação, 2001)*, Louro argues that queer movements emerged from specific political and theoretical tensions within gay and lesbian discourse. She situates these developments within the broader framework of post-structuralism, citing the influence of Michel Foucault's discursive construction of sexuality, Jacques Derrida's deconstructionism, and Judith Butler's gender theory as foundational to queer thought.

For Louro, queer theory does not focus solely on the lives of homosexual individuals. Instead, it critiques the heterosexual/homosexual binary as a central organizing principle of knowledge, social practices, and relationships. This theoretical shift marked an epistemological break from traditional understandings of sexuality.

Nevertheless, queer theory's reception in Brazil has not been without controversy. In a 2017 interview with *Folha de S. Paulo* (November 19), Judith Butler reflected on the protests surrounding her visit to Brazil that year. Although Brazilian academics across various disciplines had already been engaging with her theories, some sectors of society seemed to misunderstand her work. Butler emphasized that her theory aimed to affirm sexual rights, support human dignity, and combat violence against women. Despite that, conservative groups distorted these intentions, launching a campaign to stigmatize her work.



One petition called for the cancellation of Butler's lecture at SESC Pompeia in São Paulo, falsely claiming it would promote "gender ideology"—even though the event focused on democracy. This episode illustrates how conservative discourse in Brazil has sought to defame queer theory through misinformation and fear-based rhetoric.

In the field of law, Ramos (2021) argues that gender and sexuality serve as powerful tools for legal analysis and critique. While feminist theory has long engaged with legal scholarship, incorporating these concepts into mainstream legal frameworks has been a slow process. Queer legal theory, in particular, resists institutional closure. It remains in constant development, seeking to deconstruct normative assumptions and rethink the foundations of law.

In Brazil—as in other countries—queer legal theory is still emerging, while robust and advanced debates have taken place specially within the field of education, where scholars have explored complex terminological and epistemological questions. The subfield of queer criminology arose in the 1990s to examine how criminal justice systems erase dissident sexual and gender identities.

The ascendancy of queer criminology gained momentum in the early 2000s, alongside the proliferation of state and municipal laws prohibiting discrimination based on sexual orientation and gender identity. These efforts marked a turning point, as the state began to acknowledge LGBTphobia as a legal and social issue. According to the International Lesbian, Gay, Bisexual, Trans, and Intersex Association (ILGA), by 2019, roughly 70% of Brazil's population lived in areas where administrative sanctions existed against LGBTphobia (Martins, 2024, p. 6).

Contemporary legal scholarship in Brazil often centers on advancing LGBTQIA+ rights, affirming identity politics, and exposing structural homophobia within legal institutions. This focus reflects Brazil's paradox: it is the country with the largest self-identified LGBTQIA+ population (about 15%, according to IPSOS, 2023), yet it leads the world in violence against trans and *travesti* people—with 131 murders recorded in 2022 (Antra, 2023).

Despite this reality, Brazilian law schools have increasingly embraced queer theory. Graduate programs now include discussions aimed at deconstructing legal stereotypes and promoting anti-discriminatory policies. Queer theory has contributed to multidimensional analyses of oppression and supported intersectional approaches that address economic, racial, gendered, and sexual inequalities (Ramos, 2021, p. 1704).



Conclusion

Brazil's redemocratization was a gradual and uneven process, marked by legal and institutional barriers that limited the political participation of vulnerable groups. Within this context of resistance, the Brazilian Homosexual Movement (MHB) emerged as a pioneering force in the defense of sexual diversity. Initially, MHB's efforts focused on political openness and the creation of safe spaces for those persecuted under the military regime. Over time, its activism expanded to confront institutionalized violence and raise public awareness about sexuality and homosexuality.

Among its key achievements was the campaign to overturn the World Health Organization's classification of homosexuality as a disorder, as well as early efforts to engage the Legislative branch by proposing a constitutional amendment to prohibit discrimination based on sexual orientation. Although MHB's amendment was ultimately rejected by the Constituent Assembly, it played a crucial role in framing sexuality as a matter of fundamental rights and contributed to shaping a programmatic (that guides future laws, policies, or actions) and inclusive approach of the Constitution.

MHB also worked to challenge entrenched legal stereotypes—such as those found in laws governing morality, good manners, decency, and vagrancy—and to curb the discretionary powers of police authorities. Beyond legal reform, the movement invested in public engagement through campaigns, meetings, and publications that reshaped legal and cultural understandings of sexuality.

One emblematic example is *Lampião da Esquina*, a newspaper that played a vital role in informing the community about activism, legal struggles, and broader social issues. These efforts helped reframe the discourse around sexuality, rejecting binary and static categories, and confronting the chauvinism and sexism that affected various minority groups. Today, legal scholarship in Brazil continues to focus heavily on the problem of violence, particularly as it affects LGBTQIA+ populations. While Butler's theories provided a starting point for much of this work, the last decade has seen significant growth in queer legal studies within Brazilian graduate programs.

Emerging research increasingly seeks to queer legal norms and institutions, producing analyses and policy proposals that better reflect the country's complex social realities. This intellectual movement is contributing to the development of legal



frameworks that are not only more inclusive but also more attuned to the intersections of gender, sexuality, race, and class in Brazilian society.

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The author is solely responsible for writing the article.

Conflict of interest statement

There are no possible conflicts of interest in carrying out and communicating the research.

Funding information

The author wishes to thank the Lemann Center for Brazilian Studies at the University of Illinois Urbana-Champaign for supporting her research through the Werner Baer Postdoctoral Position. This research is part of her broader postdoctoral project on social movements and democratization in Brazil.

Data Availability Statement

The data supporting the findings of this study are available within the article.

Editors Responsible for the Evaluation Process and Editing

Carolina Alves Vestena e Bruna Bataglia.

