


## LGBTQIA+ HUMAN RIGHTS IN BRAZIL: A STUDY BASED ON THE AGENDA OF THE FEDERAL PUBLIC DEFENDER'S OFFICE

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### ABSTRACT

How has the LGBTI+ Human Rights agenda in Brazil been built in (and through) the Federal Public Defender's Office? This work aims to analyze the set of dialogues, actions and institutional measures that have been adopted and proposed as responses to the social and political demands of the LGBTQIA+ population in Brazil in recent years. The study is justified in view of the numerous challenges and demands of the LGBTQIA+ population and the indispensable role that democratic institutions assume in ensuring rights, as well as by the theoretical gap around the subject, notably in the face of a low number of investigations in the terms carried out here. The survey was conducted from August to November 2024. Its methodological tools include the collection of documents and review of narrative literature. News were collected on the institutional website of the Federal Public Defender's Office from the search tool available on the platform itself. The news was filtered by the search field, using the keywords: LGBT + LGBTQIA+. 50 articles were identified on the site that, after analysis, led to the creation of a word cloud, whose intention was to guide the analysis. The findings of this study corroborate the literature regarding the relevant contribution of the agency in the extrajudicial sphere. On the other hand, limitations of a functional, administrative and budgetary nature of the institution seem to compromise the advancement and enhancement of its activities.

**Keywords:** LGBTQIA+ population. Human rights. Federal Public Defender's Office.

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## INTRODUCTION

The clashes and challenges around the rights of LGBTQIA+ people continue to be an issue that profoundly impacts the lives of thousands of people and the development of contemporary societies. Effervescent debates have taken center stage in multiple spaces, such as in the political, legal, academic, and governmental spheres.

Every year, several campaigns are carried out internally by countries and worldwide by entities such as the UN<sup>2</sup> to promote equal rights for the LGBTQIA+ population and eradicate hatred, intolerance, violence and discrimination experienced by this group.

These actions, evidently, have not happened spontaneously. They emerge, above all, from an incessant struggle of LGBTQIA+ movements and activists who, historically, have been responsible for denouncing processes of violence and omission, including by the State, with regard to such identities. Renan Quinalha (2022) points out that this resistance can be observed in the course of history from individual existences to the emergence of an organized social movement, which dates back to the nineteenth century.

To give you an idea, according to the author, due to the continuity of prejudice and violence against this population, it is not uncommon for demands that previously seemed to be met at a given moment to need to be reclaimed, since they are never effectively overcome or get off the ground. This recognition regime for the author is classified as precarious (Quinalha, 2022). Proof of this was the recent conservative movement in 2023, rescued by Bolsonarists, who aimed to prohibit same-sex marriage, even after a favorable decision by the Federal Supreme Court in 2011. In this way, it is common to see LGBTQIA+ people resorting to the judiciary to have their demands accepted.

To recall, very briefly, we have the ADI. 4,277 and ADPF. 132, judged in 2011, recognizing the right to union between people of the same sex; the ADPF. 291, partially upheld in 2015, in which the Federal Supreme Court considered unconstitutional the mention of homosexuality in article 235 of the Military Penal Code; Extraordinary Appeal 670,422 and ADI. 4,275, of 2018, recognizing the right to gender identity of trans people; in 2019, the Writ of Injunction 4,733 and ADO. 26, where it was decided to criminalize LGBTphobia through the framing of the conduct in the Racism Law (Law 7.716/89) and in 2020, in the ADI. 5543, the recognition of the right to blood donation by gay men, bisexuals, trans people and transvestites.

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<sup>2</sup>Available at: <https://brasil.un.org/pt-br/63296-onu-lan%C3%A7a-campanha-mundial-para-promover-igualdade-lgbt>

Thus, we began to observe an important role of democratic institutions in guaranteeing and defending these rights, as is the case of the Human Rights Commission of the Chamber of Deputies, which quickly articulated itself to ensure LGBTQIA+ marriage in Brazil after the conservative onslaught mentioned above or from the Federal Supreme Court, according to the studies of Cardinali (2017) and Buzolin (2022).

On the other hand, fewer studies focus on the actions of other bodies regarding LGBTQIA+ Rights in Brazil, such as the Public Prosecutor's Office and the Public Defender's Office, although important mobilizations are led by these bodies.

In the case of the Public Prosecutor's Office, we have the case of the first Prosecutor's Office specialized in the defense of the LGBTQIA+ population created by the Public Prosecutor's Office of the State of Bahia (MPBA), through the Center for Special Support for Human Rights (CAODH). In the same state, we also have the launch of the booklet "LGBT+ Rights: no right less", produced by the Public Defender's Office of Bahia (DPE/BA).

In this work, considering the numerous challenges and demands of the LGBTQIA+ population and the indispensable role that democratic institutions assume in ensuring rights, we intend to focus on the Federal Public Defender's Office and its actions in the fight for LGBTQIA+ rights in recent years.

The choice of the theme is justified, initially, by the low theoretical production on the theme, the central position that the institution occupies when thinking about rights and social movements and by the fact that the researcher is part of it as a graduate intern at the institution.

In this sense, when developing the reflections of this investigation, we are guided by the following problem: how has the LGBTI+ Human Rights agenda in Brazil been built in (and through) the Federal Public Defender's Office?

## METHODOLOGICAL INSTRUMENTS

In the world of scientific investigation, there are two ways of facing problems and objects of research: qualitative or quantitative research. According to Eva Maria Lakatos and Marina de Andrade Marconi (2017), the choice for one or another set of techniques is a much more empirical than theoretical decision.

According to the authors, the qualitative approach bases its analyses on human perception and understanding, the elements and phenomena are interpreted within social

contexts. On the other hand, the quantitative approach strongly bases its reasoning on linear attributes, measurements, and statistical analyses.

In this bias, in view of the research object to be investigated, the research proposed here adopts a qualitative approach, understanding that the phenomenon to be analyzed is not easily measurable and that the context of daily life needs to be understood in depth.

Rebecca Igreja (2017, p. 14) points out that in conducting qualitative research, a series of methods and techniques can be employed in order to carry out such analyses, aiming to "promote a greater amount of information that allows you to see your object of study in its complexity, in its multiple characteristics and relationships". Thus, the methodological instruments of this work, supported by the lessons of Deisy Ventura (2000) and Eva Maria Lakatos and Marina de Andrade Marconi (2017) will be presented in the following structure: a) literature review; b) data collection techniques and, finally, c) data analysis techniques.

The bibliographic survey was carried out in the databases of the Scientific Electronic Library Online (SciELO), the Brazilian Digital Library of Theses and Dissertations (BDTD), the Catalog of Theses and Dissertations of the Coordination Foundation for the Improvement of Higher Education Personnel (CAPES) and open access scientific journals pertinent to the theme of the research, such as the Journal of the Federal Public Defender's Office, Law and Sexuality Journal, Law and Praxis Journal, among others.

It should be noted that the review to be carried out will be of the narrative type, whose objective is to present and debate the state of the theme to be investigated, without, however, adopting a systematic and detailed strategy of the sources consulted and the methodology used for the evaluation and selection of the works, as pointed out by Edna Therezinha Rother (2007).

The data collection procedure adopted is documentary research. For Antonio Carlos Gil (2008), documentary research is very similar to bibliographic research, with the difference between the nature of the sources. The documentary research will make use of materials that were not the focus of analytical treatment, or that can still be reworked according to the objectives of the research.

For Andrea Reginato (2017, p. 195), documentary research is constituted by the use of texts and records that are presented from a material source, "not only written, handwritten or printed records on paper, but all cultural production embodied in some

material form". In the case of the present study, we took the news publications of the DPU as documents.<sup>3</sup>

The collection of news took place on the website of the Federal Public Defender's Office, from the search tool available on the platform itself. The news was filtered by the search field, using the keywords: LGBT + LGBTQIA+. 50 articles were identified on the site. It is based on the idea defended by Kamradt (2022, p. 167) that "[...] The biggest transformation of digital in relation to social research is the possibility of collecting a gigantic amount of data from the data stored by online platforms and social networks". It should be noted that no temporal criteria were provided for the identification or selection of the reports used for the study.

After searching and analyzing the titles and content of the news, we sought to organize the incidence of initiatives, actions or highlights regarding the LGBTQIA+ population from a single word<sup>4</sup>, which went through the construction of a table and subsequent construction of a word cloud<sup>5</sup>, presented in Figure 1, which points out trends in the LGBTQIA+ Human Rights agenda that has been built in the agency.

Figure 1 – Word Cloud of DPU news



Source: Authored elaboration with data from the Federal Public Defender's Office (2024).

<sup>3</sup>It is necessary to emphasize that the choice of this methodological procedure is also linked to the short time for the execution of the study, which made other choices that required the submission of the project to the university's Ethics Committee unfeasible.

<sup>4</sup>Incidence of initiatives, actions or highlights regarding the LGBTQIA+ population from a single word: LGBTQIA+ WG (19); Public Hearing (6); Scientific publication (5); Booklet (2); Seminary (4); Session (1); Resolution (2); Interview (1); Ordinance (1); Representation (3); Recommendation (2); Meeting (3); Cooperation Agreement (1).

<sup>5</sup>The platform used to produce the word cloud was Venngage, a free infographic maker, available at: <https://infographic.venngage.com/infographics>

Based on this data, we decided to deepen the understanding of this agenda through these initiatives, actions or highlights. We chose, therefore, to address the LGBTQIA+ WG, the public hearings and the publication of materials (including scientific publications and booklets).

## **LGBTQIA+ RIGHTS AS HUMAN RIGHTS**

Human Rights, in modernity, are rights duly recognized in national and international legislation and in the constitutions of most countries in the world, according to Vicente de Paulo Barreto, Fernanda Frizzo Bragato and Walter Gustavo da Silva Lemos (2018).

These would be crystallized as protective norms of the human being intended for all people, without any discrimination. Even so, people are systematically denied their human rights, even when constitutionally proclaimed (Barreto, Bragato, and Lemos, 2018).

At the beginning of the twenty-first century, Joaquín Herrera Flores (2003, p. 288) told us that dialoguing about human rights in contemporary times presupposes challenges completely to those posed in the Universal Declaration of Human Rights of 1948<sup>6</sup>. Although the author makes important considerations about global development, geopolitics and inequalities fostered by the capitalist market, the various dimensions of his phrase are undoubtedly striking: "we live, therefore, in the era of generalized exclusion".

Possibly, the reason for this lies in the fact that the culture of human rights is difficult to build, as Eduardo Carlos Bianca Bittar (2023, p. 4) points out, especially in Brazil, taking into account that we are a country with a colonial past, whose effects are present in our daily lives. Bringing Nelson Maldonado-Torres (2018) to the debate, we have the process of "discovery" of the Americas triggered a collapse in intersubjectivity and otherness, causing a distortion in what we can understand as humanity. This process, according to the theorist, is part of the foundation of modernity/coloniality.

Maldonado-Torres (2018) already stated that docility was expected from colonized bodies, and any different bodies and/or practices went through a process of pathologization, varying according to markers of gender, sex, race, and many other markers. When we move away from the rhetoric of embellishment around modernity, we

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<sup>6</sup>As a frequent milestone in the dialogue on human rights, it is important to highlight, as pointed out by Barreto, Bragato and Lemos (2018): "Human Rights were not born in 1948, in the UN Universal Declaration of Human Rights. The Declaration expressed the culmination of a progressive moral and juridical awareness on the part of individuals and societies, an awareness that has its roots in a long and diverse tradition reflected not only in liberating and emancipatory events throughout modernity, but also in written and oral texts."



find that it is far from being an emancipatory project, when, in fact, it is a civilizing project (Grosfoguel, 2019).

When addressing the arrival of Europe in the Americas, Africa, or Asia, Ramón Grosfoguel (2019) points to the existence of a *package of hierarchies of domination*, once invisible, based on hegemonic scientific narratives. In this bias, the process of European colonization in the global South must be observed beyond the formation of a new world economic system, but also for the formation of a new civilization permeated by a series of relations of domination that go beyond the economic field, making up the political, epistemic, religious, pedagogical, spatial, linguistic, sexual, gender, racial, etc., inserted in a historical capitalism<sup>7</sup>. Notably, the legal field and the conformation of rights are part of this logic.

Such a process would be related to what the aforementioned author tells us when he points out that "modernity produces a world where only one world is possible and the others are impossible" (Grosfoguel, 2019, p. 73). From a similar perspective, we can make an analogy that modernity/coloniality produces a subject, affirmed as the universal standard, which becomes a reference for various dimensions of human life, so that not all humans can reflect such a reference, which in itself already demonstrates that, although this category has universal pretensions, it is not for everyone. as a representative category of humanity. For Saada Zouhair Daou (2021, p. 18), "modernity, although theoretically supported by the Enlightenment discourse that was intended to be universal, excluded most human beings from its universality":

Infantilization, bestialization and pathologization. Modernity is accompanied by discourses that allow the exclusion of certain groups, based on the production of "scientific" truths about them. Not infrequently, these truths implied the imposition of labels that allowed the removal of the status of subject. Blacks were bestialized, women were infantilized, and those who had a deviant sexuality or gender were somehow pathologized. These truths, from Modernity onwards, were produced and/or legitimized especially through Science and Law, considered as supposedly neutral at the time and, according to some romantics, still today (Daou, 2021, p. 26).

In literature, even with small different adjectives, this image often corresponds to: "the white, Christian, cisheterosexual, bourgeois, without disabilities and thin man as a

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<sup>7</sup>According to Grosfoguel (2019, p. 70), "The really existing capitalism is historical capitalism, produced by the civilizational logics of death of modernity or – to put it in other words and make visible what is at stake – by the "modern/colonial, capitalist/patriarchal, Christian-centric/Western-centric world-system" (G, 2011). This historical capitalism is crossed and organized from within by the civilizing logics of modernity/coloniality, and not the other way around. That is why we argue that this capitalism is racist, sexist, heterosexist, Christian-centric, Western-centric, Eurocentric, ecological, Cartesian, etc."

measure for all other things", as portrayed by Leticia Nascimento (2021, p. 93), and/or "man, white, heteronormative and rich, in the words of Magali Almeida, Gabriela Barbosa and Thaise Viana (2023, p. 244) and/or "white European man or man of European origin, Christian, inserted in the capitalist system – at least as a consumer" according to Gêssica Guimarães (2022, p. 35) and/or "heterosexual cisgender white man who needs capital and the emulation of European reason to be heard" (Daou, 2021, p. 26).

When we think about the impacts provided by this abstract but widely disseminated image of society, we have to think of it as a reference for the most diverse relationships. According to Guimarães (2022), this image contributes to the establishment of different levels between people, within the scope of social play, in order to list the most apt and the least apt to become subjects and have rights recognized as such. This image, for the author, is far from reflecting the plurality of humanity; on the contrary, it is exclusionary and has no commitment to diversity and difference, on the contrary, it continues to verbally and physically violate bodies in various ways.

In this context, according to Bittar (2023), the construction of the human rights agenda is difficult, sensitive to setbacks, and fragile in the face of an environment of political turmoil, obscurantism, and institutional instabilities. In this way, "in a defenceless environment, the culture of human rights has difficulties in establishing itself and progressing. She, most of the time, resists and survives, but is easily sidelined, discouraged, persecuted and marginalized."

It is for this reason that we need to talk about LGBTQIA+ Rights as Human Rights. We cannot fail to take into account that modernity has also produced and instituted dictates and standards for sexuality by creating nomenclatures, demarcating identities and categorizing sexual practices.

Daou (2021, p. 29) provokes us to reflect on the importance of understanding the constitution of the universal subject as a product of modernity in order to think about the world of Law and the guarantee of rights itself. According to her, this category, among its numerous impacts, reflects consequences in epistemology, that is, in legal knowledge. Considering that the Brazilian legal system was built around the universal subject, "to speak of subject is to speak of right(s)", after all, only those who are subjects have rights, which is why we speak of a subject of law.

To speak of subjects recognizing that this category was very far from the universality that appeared and still appears means to recognize the existence of the other(s), the



non-subjects. The creation of the universal subject resulted in the creation of the other, of those who are not subjects. The social markers of gender, race, sexual orientation, class, and coloniality are important to understand the limits of the alleged modern universalization and how this has affected non-subjects (Daou, 2021, p. 29).

The dialogue on generalized exclusion forces us to reflect on how in the course of history various institutions have been structured to regulate the aspect of human sexuality. As Renan Quinalha (2016) points out, "legal and moral norms are combined with the objective of dividing, classifying, and hierarchizing behaviors," which were classified as desirable, tolerable, unacceptable, and even prohibited.

Thus, as Roger Raupp Rios (2006, p. 72) argues, a legal approach that takes seriously the perspective of human rights in the field of sexuality is indispensable, notably "based on the enunciation of fundamental principles provided by human rights applicable to the issues brought about by sexual rights", considering the relationship between citizenship, democracy, human rights and sexuality – this model the author calls the democratic right of sexuality. For the author,

(...) Developing the idea of sexual rights from the perspective of human rights points to the possibility of the free responsible exercise of sexuality, creating the basis for legal regulation that overcomes the traditional repressive approaches that characterize legal interventions in these areas. It implies, so to speak, a positive understanding of sexual rights, in which the set of legal norms and their application can go beyond restrictive regulations, forging conditions for a right to sexuality that is emancipatory in its spirit (Rios, 2006, p. 72-73)

The social exclusion of LGBTQIA+ people, according to Caio Pedra (2020, p. 25), is not an individual fact and can be understood as a multifactorial and multidimensional phenomenon. Multifactorial because it is produced from a combination of factors that can be historically analyzed along with morals, religion, culture and multidimensional because it reaches multiple dimensions of life, including legislative production and the guarantee of rights.

According to Caio Pedra (2020), many bills have been abandoned or are paralyzed by a sea of omission and resistance, in the face of a federal legislature marked by the presence of religious sectors and the predominance of conservative thought. In this bias, according to the author, the normative apparatus aimed at LGBTI+ people is limited to decrees, resolutions, and ordinances.

The Observatória platform<sup>8</sup>, created by Agência Diadorim, monitors bills related to the LGBTQIA+ population in Brazil. In this bias, the tool allows us to read data that show the advances and setbacks regarding the rights of the LGBTQIA+ population in the country. As an example, between January 2019 and October 2024, state deputies and the National Congress proposed 575 bills favorable to the LGBTQIA+ population as opposed to the 437 anti-LGBTQIA+ bills proposed in that interval.

In this universe, the author demarcates that this structural discrimination experienced by LGBTI+ people in the face of the legal system has a "special significance" in the law, considering that one of its functions would be to prevent institutional and naturalized disadvantages for certain individuals in accessing rights (Pedra, 2020).

## **LGBTQIA+ HUMAN RIGHTS AGENDA AT THE DPU: BRIEF CONSIDERATIONS ON THE LGBTQIA+ WORKING GROUP, PUBLIC HEARINGS AND PUBLICATION OF MATERIALS**

Undoubtedly, important starting points for understanding the institution of the Federal Public Defender's Office and its agenda regarding the rights of LGBTQIA+ people in Brazil are Complementary Law No. 80/1994 and Complementary Law No. 132/2009. Both, in general, aimed at organizing the Public Defender's Office in Brazil, both at the federal and state levels<sup>9</sup>, establishing general rules for its operation (Brasil, 1994; Brasil, 2009).

Although the Public Defender's Office is not a homogeneous institution and should not be treated as a whole<sup>10</sup>, as Caio Santiago Fernandes Santos (2017, p. 94) prescribes, we can understand it as a permanent institution, essential to the jurisdictional function of the State, whose mission, as an expression and instrument of the democratic regime, is based on legal guidance, the promotion of human rights and the defense at the judicial and

<sup>8</sup>Available at: <https://observatoria.org/>

<sup>9</sup>According to Bernardo Buta, Adalmir Gomes and Carolina Lima (2020, p. 2): "In addition to the DPU, there are 27 other public defender's offices in Brazil, one for each unit of the Federation. It should be noted that the competencies of the DPU are not to be confused with the competencies of the state public defenders' offices, although the target audience of these institutions is the same. The DPU works with the Federal, Military, Electoral, Labor Courts, Superior Courts and administrative instances of the Union. The Public Defender's Office of the Federal District, in turn, together with the administrative bodies of the Federal District, the judges of Law and the Court of Justice of the Federal District and Territories".

<sup>10</sup>In this sense, it is important to highlight that the Public Defender's Office encompasses the Federal Public Defender's Office, the Public Defender's Office of the Federal District and the Territories, the Public Defender's Offices of the States.

extrajudicial levels, of individual and collective rights, in an integral and free way<sup>11</sup> (Brasil, 1994).

In this sense, the Public Defender's Office can occur not only in the Judiciary, but also in other arenas, such as the Executive and the Legislative. This is what happens, for example, with participation in public hearings and interviews in the media clarifying rights. Or even integrating administrative councils that debate public policies (Santos, 2017, p. 102).

Maria Tereza Aina Sadek (2019) points out that among the institutions responsible for ensuring rights in our country, which includes the Judiciary, the Public Prosecutor's Office, the legal profession and the Public Defender's Office, the latter receives a prominent role, especially because the constitutional text treats it as legal assistance, which expands its own possibilities of action and its instruments.

In addition, we are interested in dialoguing about an action aimed at various forms of discrimination that involve the so-called vulnerable groups, such as the elderly, children and adolescents, blacks, indigenous peoples, women, the population, people with disabilities, among others. In this sense, it is important to emphasize, as highlighted by Santos (2017, p. 100) that the "income criterion, therefore, is not the only one used to select possible groups served, which expands the possibilities of stimulating the organization of social groups around certain themes".

Such characteristics represent a significant advance in the possibilities of transforming individuals into citizens, of fighting against situations that place individuals in a situation of vulnerability. Overcoming vulnerabilities is entering citizenship. To be a citizen is to be a subject of rights and rights involve equality, rejection of certain inequalities or exclusions, frontally opposing privileges and discrimination. In other words, it is the concrete possibility of converting the law or ideal into reality; the possibility that the precepts of equality are not mere rhetoric (Sadek, 2019, p. 17).

When we talk about the rights of the LGBTQIA+ population and the repertoires of struggle that have been built judicially and theoretically, we come up against some objectives of the Public Defender's Office itself, which can be circumscribed in the primacy of the dignity of the human person, the reduction of social inequalities, the affirmation of the

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<sup>11</sup>According to Sadek (2019, p. 16-17), about the qualification as full and free: "In other words, it is about providing needy individuals with much broader assistance than that supposed in the procedural formality, including the rights to information, judicial and extrajudicial procedures. Free of charge, in turn, ensures that those who do not have sufficient financial and social resources are not excluded from the possibility of enjoying their rights and obtain support, assistance, guidance, representation and defense".

Democratic Rule of Law and the prevalence and effectiveness of human rights (Brasil, 1994).

Although the potential of the Public Defender's Office as an important object of legal research on access to justice in Brazil is recognized (Santos, 2017), we observe that few studies have focused on the role of the Public Defender's Office in the promotion of LGBTI+ rights, even though the institution can "be analyzed based on different criteria and analytical frameworks" (Santos, 2017, p. 94).

Thus, in this work, we refer to the "agenda" to refer to the set of dialogues, actions and institutional measures that have been given as responses to the social and political demands of the LGBTQIA+ population in Brazil, considering that such issues directly impact the lives of countless citizens and the development of society as a whole. We chose to bring nuances of this agenda from 3 (three) elements that had the most impact on the news and that appear as a highlight in the word cloud presented above: the LGBTQIA+ Working Group, the public hearings and the publication of materials.

## LGBTQIA+ WORKING GROUP

Since 2014, the DPU has had Working Groups (WGs) aimed at meeting the constitutional mission of promoting the institution's human rights. According to their institutional website, these groups turn to immediate measures to stop violations of rights or guarantee rights for socially, organizationally, and informationally vulnerable populations (Brasil, 2024b).

These vulnerable populations include, according to the institution<sup>12</sup>, children and adolescents, elderly people, people in situations of deprivation of liberty, people with disabilities, victims of domestic and family violence, homeless people, waste pickers, indigenous communities, quilombolas, caiçaras and other groups that need special protection from the State, such as LGBTQIA+ people (Brasil, 2024b).

The institutional model of the Public Defender's Office allows several collective conflicts, with relevant social impact, to enter the Judiciary to demand decisions, which until then did not have the conditions to do so. This model expands the capacity of social movements to mobilize the law. The diversity in the repertoire of possibilities for the Public Defender's Office contrasts with the previous prevailing situation in which the only possible way out was the filing of an individual lawsuit. (...) In short, due to the expansion and the legal service model of the Public Defender's Office, social movements are increasingly able to appear in the active pole of demands,

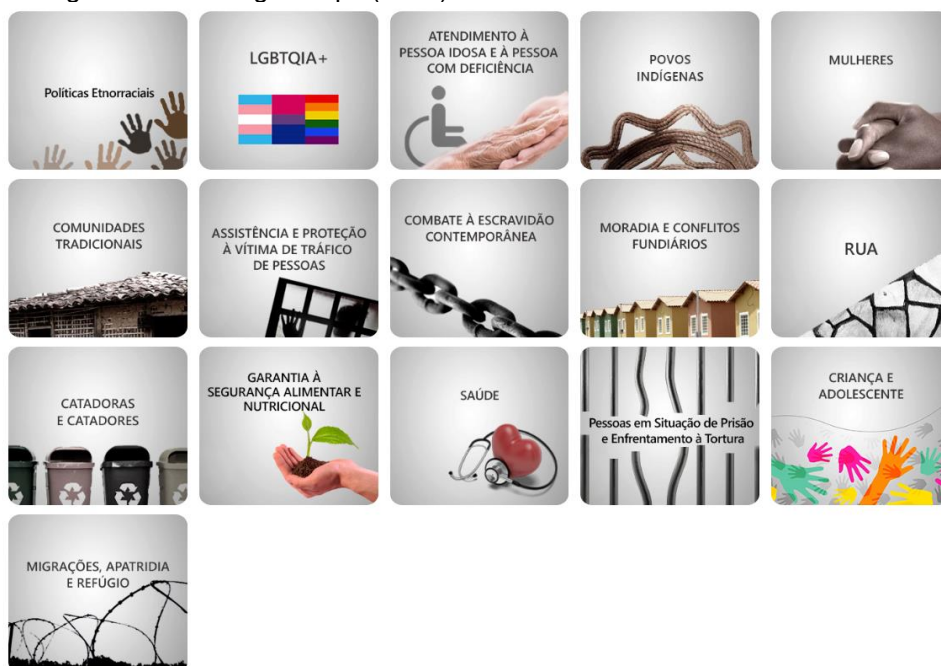
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<sup>12</sup>Available at: <https://direitoshumanos.dpu.def.br/grupos-de-trabalho/>

pleading for the application of rights that have already been affirmed or seeking the conquest of new rights (Santos, 2017, p. 114)

Currently, among 16 (sixteen) Working Groups (WGs), we find the LGBTQIA+ WG, whose activities and initiatives stand out in the data analyzed, considering that among the 50 news analyzed on the DPU website, 19 dealt with this WG.

Figure 2 – Working Groups (WGs) of the Federal Public Defender's Office



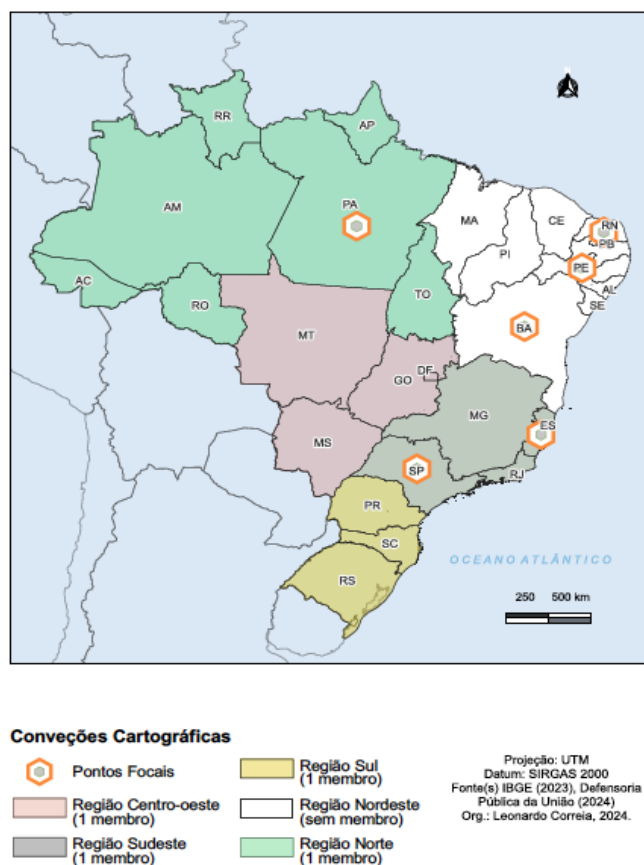
Source: Federal Public Defender's Office (2024)

The LGBTQIA+ WG defends that people have the right to enjoy all human rights free from discrimination because of their sexual orientation or gender identity. In this bias, it is available to deal with cases of discriminatory treatment within the scope of the Federal Administration or any violation of human rights associated with gender identity and LGBTQIA+ citizenship. On the WG's own page, located on the institutional website of the DPU, the attribution of acting in collective protection in case of violations of rights practiced by television programs is reinforced, in view of the competence of the Union to supervise the broadcasting service (Brasil, 2024c)

The structure of the WG has members from each geographic region of the country, and the composition is made up of 5 public defenders, covering the North, Northeast, Midwest, Southeast and South regions. At the time of writing, the Northeast region was vacant, which raises concern when we consider the region's mitigating inequalities and violence rates (Brasil, 2024c).

In addition to the official members, the WG has 6 (six) focal points, also composed of public defenders, as shown in Figure 3:

Figure 03 – Composition of the LGBTQIA+ Working Group in the Federal Public Defender's Office



Source: Federal Public Defender's Office (2024). Authorial elaboration.

The focal points are indications of local representatives made from the members, whose function is to collaborate in the implementation of the guidelines and operations specific to the theme worked, as informed by the Guide to Guidelines for Working Groups (Brasil, 2022). However, the low number of focal points in the LGBTQIA+ WG is noteworthy, considering Brazil's territorial and population criteria, and the composition of other WGs of the institution (Brasil, 2024c). According to Sadek (2019, p. 18-19):

The institution is in charge of operating in a country marked by strong economic and social imbalances; in addition to considerable regional inequalities and within each federation unit. Brazil is among the most unequal countries in the world, with a high contingent of unemployed and discouraged people. The levels of schooling, health and housing are extremely low, characterizing an economic and social reality constituted by a large portion of individuals with reduced quality of life, excluded from collective goods. In addition, countless privileges challenge the construction of a more egalitarian, democratic and republican society.



As an example, when we look at the experiences in other WGs, we have the Migration, Statelessness and Refuge WG with a composition of 22 (twenty-two) focal point members, the Indigenous Peoples WG with 18 (eighteen) focal point members, the WG People in Prison Situations and Combating Torture with 16 (sixteen) focal point members and the Traditional Communities WG with 15 (fifteen) focal point members. Currently, the LGBTQIA+ WG has only 6 (six) focal points, being, among the 14 groups, among those with the lowest composition (Brasil, 2024b).

Evidently, this issue can enter into a deep debate about the functional, administrative and budgetary autonomy of the institution, which goes beyond the scope of this work, however, the need to produce knowledge about the performance in organizations of the justice system remains evident. Bernardo Oliveira Buta, Adalmir de Oliveira Gomes and Carolina Menezes Lima (2020, p. 22) have emphasized that "the Judiciary has increasingly received the attention of scholars; however, the other organizations of the justice system, such as the DPU, have been neglected".

At this point, it is necessary to make in-depth considerations about the "narrow structure" of the Federal Public Defender's Office, in the terms of Marcella Raphaella Faustino, Eduardo Cerqueira Batitucci and Marcus Vinícius Gonçalves da Cruz (2023, p. 6). In an analysis carried out by the latter, based on the IV Diagnosis of the Public Defender's Office in Brazil (Brasil, 2015), produced by the Ministry of Justice, the "difficulties faced by these institutions, among which the unequal distribution of these bodies within the national territory and the deficits in their staff, both in the middle and in the end area", are latent.

It is necessary to bear in mind, as Sadek (2019, p. 19) points out, that Brazil has a significant contingent of individuals who experience processes of exclusion and low quality of life, which places them in the position of "pseudo-citizens". For the author, the Defender's Office has the mission of transforming these individuals into citizens and, notably, this process "depends substantially on the performance of public defenders in combating disrespect and threats to rights, whether of an individual or supra-individual nature".

The mention of the other Working Groups gives rise to another note: the inexpressive dialogue between them. It is true that the LGBTQIA+ population is not a homogeneous block of people – within the acronym itself, identities have numerous specificities – therefore, we are talking about LGBTQIA+ people from different social

classes, different races, different ethnicities, abilities, genders, housing conditions, work and many others. The fact is that the absence of an intersectional perspective overlooks how these forms of violence and denial of rights occur from various social and cultural markers.

We defend intersectionality as an ally of this process, understanding its potential in the "articulation of social differences in the production – or deconstruction – of inequalities in the contemporary world", according to Carlos Henning (2015, p. 122), through an agenda of encouraging citizen diversity and combating the ideals of the universal subject.

The term intersectionality was coined 30 years ago by the intellectual Kimberlé Crenshaw (Henning, 2015). According to Bruno Sena Martins (2023, p. 25), the concept arises from the author's attempt to problematize "that the place of black women in the North American justice system could not be understood either from the situation of women who are white, or from the situation of black women who are men".

Although there is a wide range of conceptualizations of intersectionality, especially due to its wide adoption by academia, public policy activists, professionals, and activists from different places, as pointed out by Patricia Hill Collins and Sirma Bilge (2021), we can mobilize the practical concept supported by the aforementioned authors:

Intersectionality investigates how intersectional power relations influence social relations in societies marked by diversity, as well as individual experiences in everyday life. As an analytical tool, intersectionality considers that the categories of race, class, gender, sexual orientation, nationality, ability, ethnicity, and age group – among others – are interrelated and mutually shaped. Intersectionality is a way of understanding and explaining the complexity of the world, people, and human experiences (Collins and Bilge, 2021, p. 16).

Collins and Bilge (2021) point out, in their reflections, several examples in which intersectionality was mobilized to solve social problems and circumvent inequalities. Among the examples mentioned, we note the educational policies of openness of American universities to diversity, where intersectionality acts as an important analytical tool to promote equity on campuses. In another example, the authors report that black activists in the United States used intersectionality as an analytical tool to make visible issues within movements such as feminist, class, and race, such as work, education, health, since these movements always privileged a single category. At the same time, the concept of intersectionality reveals that socioeconomic inequalities cannot be evaluated only by class issues, the use of intersectionality in the understanding that race/ethnicity, age, gender, for example, change the way we can think about other policies.

According to Kimberlé Crenshaw (2004, p. 16), discrimination, from a more traditional view, ends up excluding these overlaps, having difficulty perceiving the great challenge of intersectionality, which is to address differences within difference. Thus, according to the author, "intersectionality offers an opportunity for us to make all our policies and practices effectively inclusive and productive".

On the other hand, there is the exclusive presence of Public Defenders, that is, professionals with a degree in Law. Caio Santiago Fernandes Santos (2017, p. 96), when pointing out the "possibility of extrajudicial resolution of demands and legal training of those served through rights education courses" points out that the institution has the involvement of interdisciplinary teams, however, in the LGBTQIA+ WG this is not present.

As a reflection of the possibility of extrajudicial action by the Public Defender's Office and the performance in collective cases with greater complexity and social impact, some of the institution's teams are composed not only of legal professionals, but also from other areas, such as urban planners, psychologists and social scientists. The "interdisciplinary service" provided for in LC 132 allows us to situate problems not as exclusively legal, but in a specific social context with several possibilities of strategies. Specialized centers are exemplary of this characteristic, since they are often composed of professionals from different areas (Santos, 2017, p. 103-104).

Although most of the news identified on the DPU website deal with notices for those interested in filling a vacancy for a member of the LGBTQIA+ WG, other information can be accessed on the WG page itself, fed with information from the Working Group for the external public, where we also find the information presented in this work, such as the composition of the WG, contacts, attributions and all the work developed by each WG, actions and projects/agreements, publications, legislation, news and multimedia content.

In particular, the Technical Notes produced by the aforementioned WG are noteworthy. Their mission is to provide an objective analysis of public policies, government programs, episodes of significant social impact and normative propositions. According to the institution's website, such documents have the purpose of collaborating with the social debate with regard to important issues for society, including proposing alternatives and solutions. Some notes issued in recent years were: Technical Note No. 17 – Technical note on the institution of a national day to combat lesbocide in Brazil; Technical Note No. 18 – Internalization of a human rights treaty. Inter-American Convention Against All Forms of Discrimination and Intolerance; Technical Note No. 20 – Technical note on the quota policy for the admission of trans people to higher education.

## PUBLIC HEARINGS

Faustino, Batitucci and Cruz (2023) demarcate that even though they do not enjoy the necessary priority within the Public Defender's Offices, the extrajudicial actions practiced are considered fundamental. Among such actions, coinciding with data from the IV Diagnosis of the Public Defender's Office in Brazil produced by the Ministry of Justice (2015), the news survey carried out in this study identified notable participation and/or promotion in public hearings.

According to the authors, these hearings open the possibility of dialogue with society and, according to the DPU itself, such spaces are characterized by orality and effective debate on a relevant topic. The institution believes that it is essential for its work to know the reality of the community and of the vulnerable groups themselves, which can only occur through dialogue, made possible, above all, by public hearings (Brasil, 2024a).

The participation of users or the community is a relevant point addressed in the literature (Santos, 2017, p. 100; Alô, 2016). In this sense, we speak directly of an "innovative ideal type of legal service", which values a horizontal relationship and "admits the participation of those served in the resolution of demands, especially when it involves arenas such as the Executive and Legislative".

Based on the news analyzed, we prepared a table summarizing the topics discussed in the public hearings that touch the LGBTQIA+ population and the nature of the involvement, that is, whether they were public hearings organized by the DPU itself or whether they were public hearings organized by other bodies and institutions in which the DPU's participation occurred by invitation. A brief overview is shown in Chart 1:

Chart 1 – Public Hearings aimed at the LGBTQIA+ community

THEME OF THE PUBLIC HEARING	DATE OF REALIZATION	NATURE OF INVOLVEMENT
Rights for the LGBTQIA+ population in the National Congress	15/05/2024	Participation of the Federal Public Defender's Office – Human Rights Commission of the Federal Senate
Rights for the LGBTQIA+ population in the National Congress	15/05/2024	Participation of the Federal Public Defender's Office – Commission on Human Rights, Minorities and Racial Equality of the Chamber of Deputies
Rights of LGBTQIA+ people based on the recommendations in the Universal Periodic Review (UPR) – a United Nations mechanism	18/06/2021	Participation of the Federal Public Defender's Office – Commission on Human Rights and Minorities of the Chamber of Deputies
Citizenship and Culture Policies for the LGBTQIA+ population – Aldir Blanc Law	25/05/2021	Participation of the Federal Public Defender's Office – Culture Commission of the Chamber of Deputies
Quotas for trans people in the institution's selection processes	29/05/2024	Organized by the Federal Public Defender's Office – LGBTQIA+ Working Group (WG)

Source: Federal Public Defender's Office (Brazil, 2024a). Authorial elaboration.

Among the public hearings mapped in the news analyzed, most of them had the participation of the DPU as an institution, that is, they were external public hearings. Coincidentally, such episodes occurred in sharing with the Legislature.

Two of them took place on the same day, in different shifts, in allusion to the International Day for the Fight Against LGBTphobia and, on the occasion, the struggles against discrimination in Brazil and the DPU's performance individually (issues related to violence and health) and collectively (discrimination and imprisonment of LGBTQIA+ people) were highlighted.

On another occasion, also in an external dynamic with the participation of the DPU, held in the Chamber of Deputies, we sought to discuss the rights of LGBTQIA+ people based on the recommendations received by Brazil within the scope of the Universal Periodic Review (UPR), a mechanism of the United Nations. This mechanism verifies the human rights situation in UN member countries. According to the institution, in 2017, in the last UPR cycle, 246 recommendations were received, of which 242 were accepted by Brazil.

Finally, in another public hearing held in the Chamber of Deputies with the participation of the DPU, the need for greater access to financial aid and public notices of

the Aldir Blanc Law by the LGBTQIA+ community was discussed. On the occasion, organized by the Chamber's Culture Commission, the population was heard and complaints were gathered from cultural workers who are unable to obtain access to the resources of the Law, especially due to the Covid-19 pandemic, the demands demanded and access to the internet.

The only public hearing organized by the DPU sought to deal with quotas for transgender people in the institution's selection processes. Such a policy may cover competitions for positions of federal public defender, public servants and interns. On the occasion, the discussion was attended by representatives of the Brazilian Association of Homotranssafetive Families (ABRAFH), the National Association of Transvestites and Transsexuals (Antra) and the Coletivo Juntas.

In general, it is verified that acting in the extrajudicial sphere tends not only to enable new options for access to justice, but to allow greater participation of the citizen, either by choosing the person responsible for resolving the conflict, or by his participation in the construction of the result achieved. This participation in the search for a solution and, in some situations, for the reconstruction or maintenance of bonds can provide social gain and the expansion of citizens' socio-legal knowledge and allow people to be better able to recognize the violation of their rights and the necessary means to defend them (Faustino, Batitucci, and Cruz, 2023, p. 5)

## PUBLICATION OF MATERIALS (SCIENTIFIC PUBLICATIONS AND BOOKLETS)

The analysis carried out allowed us to observe a significant amount of news that dealt with the publication of materials such as scientific publications (*e-books*) and booklets. Actions of this nature, aimed at promoting education in human rights, according to Faustino Batitucci and Cruz (2023) have also been carried out through social networks, seminars, courses and lectures, being quite common and uniform within the country.

The performance in education in rights, as a legal provision of the institution, has gained plural experiences. Worthy of note are the training of popular defenders, aiming to train citizens to act within their communities (Faustino, Batitucci and Cruz, 2023, p. 11). As an example, the authors bring the experiences of the Public Defender's Office of Minas Gerais in the area of sexual diversity: the institution "works with access to information and education on rights, given that this public has difficulty accessing the formal system to claim their rights, and the lack of knowledge is the main obstacle to this".

The current institutional model allows the Public Defender's Office to act in legal guidance in a broad sense, including "the dissemination and awareness of human rights, citizenship and the legal system" as provided for in LC 132 of 2009. In this sense, there is a legal provision for legal education course initiatives for the popular



classes, aimed at training neighborhood leaders and social movements<sup>13</sup>, so that they later have a multiplier effect on the knowledge obtained (Santos, 2017, p. 100)

In the mapping carried out, we identified the publication of an e-book by the LGBTQIA+ WG, with the support of the National School of the Federal Public Defender's Office (ENADPU), aimed at discussing the LGBTQIA+ theme, with a special focus on the following thematic axes: human rights; access to justice; right to health; social rights and right to education. Since the call, the institution hoped to have the participation of students, professors, researchers and anyone interested in participating in the discussion on the theme pointed out, its effectiveness and difficulties.

Another initiative identified was the production and launch of a booklet on the Rights of the LGBTQIA+ Population, whose production took place within the scope of the Project "DPU in line with the 2030 Agenda", between the DPU and the United Nations Development Program (UNDP). According to the institution, the material explains, in a didactic way to the population, which rights have already been conquered, even if they are not yet provided for in the legislation, in addition, it translates into an important support material to guide attendants of the justice system and the DPU itself in a quality performance.

In the publication, it is possible to view explanations and guidelines regarding acronyms used to represent the plurality of gender identities and sexual orientations, areas of action such as human rights, civil, criminal, social security and labor, among others, as well as information pertinent to the support network for the LGBTQIA+ population, which work directly with the guarantee and defense of rights in the reception, in social assistance, culture, health, or political articulation in a broad way.

Discriminatory practices in the workplace, social security issues related to homotransaffective unions, including their own recognition, the use of bathrooms and other spaces according to gender identity, the right to use the social name, are issues addressed by the booklet and responses to discriminatory practices that have been diverse in

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<sup>13</sup>It is important to highlight, also according to Santos (2017, p. 121): "The Public Defender's Office, to the extent that it allows and encourages the organization of the social groups served, a characteristic of the innovative model of legal service, can contribute to the formation of social movements. Many of the issues in which the Public Defender's Office works depend mainly on social movements that daily fight for better political conditions. The causes for the emergence or strengthening of social movements are the most diverse, involving economic and social factors, for example A legal service, by itself, is not a sufficient condition for the organization of a social movement. However, the Ombudsman's Office model can stimulate or, at least, not be an impediment to the organization of social movements. In short, the strengthening of social movements has a high potential for impact on institutions, norms and the distribution of quality legal services".

LGBTQIA+ existences and experiences, demonstrating here the social relevance of the production of didactic materials and of inserting people in the debate.

When we think about Brazil, although we are experiencing a significant growth of conservatism, especially motivated by Bolsonarism<sup>14</sup>, we can recognize important actions of the Ministry of Education and the Ministry of Human Rights aimed at promoting an education that respects differences and that combats prejudice, discrimination and violence, from basic to higher education, with the establishment of various programs and actions aimed at this mission. In the same sense, among the Sustainable Development Goals, established with the UN, we have the mission to promote quality education (Goal 4), gender equality (Goal 5) and the reduction of social inequalities (Goal 10).

The possibility of accessing various debates that address the themes of diversity, difference, and respect for LGBTQIA+ identities has provided the opportunity to revisit a series of discriminatory ideas naturalized in the social sphere, breaking with violent and abjectifying cycles.

In view of the immense range of prejudices and differences in human societies, there is an urgent demand for other models of education focused on diversity, which emphasize the peaceful and egalitarian coexistence of differences. According to Munanga (2012), it is urgent to introduce educational mechanisms focused on avoiding the various forms of discrimination. The author conceptualizes discrimination as an action or visible behavior of denying equal treatment to different people (people or groups) as a result of their racial, ethnic, sexual, economic, religious, linguistic, regional origin, etc.

As a society, we experience a colonial heritage that materializes daily through discriminatory practices, especially of gender, race, class, religion, ethnicity. These practices present in the spaces of sociability and in our daily relationships reach multiple dimensions of human life and, therefore, must be debated. The process of education in rights goes through the process of empowerment of the vulnerable subjects themselves, so that they can gain autonomy, recognize violations and help in the construction of agendas that can be debated within the institution and be taken to other spaces, in the Executive, Legislative and Judiciary.

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<sup>14</sup>According to Mogilka (2017), Bolsonarism comprises different political bases: evangelical-neo-Pentecostal power, fascism, and the militarization of society.

## FINAL CONSIDERATIONS

As a result of this study, we understand that the rights of the LGBTQIA+ population have been arduously claimed and disputed in the Executive, Legislative and Judiciary spheres. At the same time, we understand that actions and referrals carried out in these spheres play a key role in guaranteeing rights and reducing inequalities, discrimination, and violence, that is, a fundamental importance in building a more inclusive society for the LGBTQIA+ community.

Although they are important, part of these spheres has shown themselves to be inert when it comes to promoting rights for this population. It is no longer appropriate to disregard this population from the legislative frameworks, its identity traits and seek the simple adequacy of these people in what translates the "universal subject". The Legislature, in particular, continues to condone the perpetuation of accentuated inequalities, while the Executive and the Judiciary have made important contributions. The consequences of this inertia are revealed in the worrying social indices of education, violence, health, housing, work, social security, among others.

The Federal Public Defender's Office, the focus of analysis of this study, has contributed and been responsible for a combative and contributory performance with regard to changes in exclusive and discriminatory processes with the LGBTQIA+ population. On the other hand, numerous challenges are posed to it.

The findings corroborate the literature regarding the relevant contribution of the agency in the extrajudicial sphere. On the other hand, limitations of a functional, administrative and budgetary nature of the institution seem to compromise the advancement and enhancement of its activities.

Regarding the LGBTQIA+ WG, we consider that its actions and minutes of meetings could be more publicized on the official website, contributing to greater transparency and monitoring of activities by the LGBTQIA+ population, the Judiciary, academia and society in general. We noticed, from the news and the specific page of the WG, the lack of dialogue with other working groups of the institution itself, so that sometimes the LGBTQIA+ population is treated as a homogeneous block. Evidently, this context arouses concern, since within the community itself each acronym already has numerous specificities and is also made up of subjects who have other social markers of race, ethnicity, ability, housing condition and socioeconomic condition, contemplated by other WGs. The low number of

members of the LGBTQIA+ WG also seems to face challenges to account for the plurality of demands of the community and the territorial contingent and population in Brazil.

With regard to public hearings, we consider the number of those organized by the institution itself to be low. In other words, the institution has participated in more external public hearings (from other institutions). Such a scenario is not at all negative, since the institution still continues to dialogue with society and other institutions, however, at least since the creation of the WG in 2017 and in the mapping of news carried out, the number of public hearings organized by the DPU has not been significant.

Regarding the publication of materials (scientific publications and booklets), although well produced and didactic, they are not easily presented on the LGBTQIA+ WG page, which can make it difficult for society to access them.

Brazil and the Federal Public Defender's Office need to advance and improve strategies, especially extrajudicial, to ensure the rights of the LGBTQIA+ population. Sophisticated maps of social inequality, violence and discrimination can be developed with the theoretical-methodological help of tools such as intersectionality, as well as multidisciplinary joint work and be especially useful in facing these cycles, aiming at the improvement and effectiveness of public policies and democratic institutions committed to social change, with the fight against inequalities and discriminatory practices.

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