

LGBTQIA+ HOMELESS POPULATION: THE ROLE OF NGOS AS ACTORS OF INFLUENCE IN INTERNATIONAL LAW AND GLOBAL GOVERNANCE



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ABSTRACT

The aim of the research, in the light of the debate on the contemporary understanding of the international scene and the recomposition of innovative actors, especially NGOs, limits the work to understanding the legitimacy and reflections of the defense of the rights of

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LGBTQIA+ people living on the streets, which, in turn, promotes the uprising in the face of the Human Rights dialectic with the aim of endorsing protective instruments of the referenced community in the face of a hypothetical deductive analysis and based on a previous theoretical repertoire, leading, in conclusion, to conclude the singular relevance of performance and responses to the pretensions.

Keywords: LGBTQIA+ Human Rights. Homelessness. NGOs. Global Governance.

INTRODUCTION

For a long time, both homosexual people and relationships constituted between people of the same gender have been historically and culturally ostracized, often giving rise to alternative communities perceived in the shadows of ghettos. As their affection is understood as scandal, contempt for rules and customs and for the perceived spectrum of family, it ends up being contested, rejected and considered "cursed".

Such people, because they do not adhere to the hetero-oriented behavior, which occupies the hegemonic position in the social stratification, are considered strange and different, relegated to the condition of marginals, oblivious to the extension of any protective order, whether domestic or international. We cannot forget that discrimination against LGBTQIA+ people derives, in essence, from mechanisms of social exclusion that are sedimented in society, because, as we will see, certain behavioral patterns of human beings, seen as "not beneficial" tend to be banned.

Now, here is the perceived problem: the vulnerability of LGBTQIA+ people, which ends up exposing them in certain contexts – mainly related to class, race and socio-economic conditions – to homelessness and international and domestic inertia in relation to the promotion, within a universalist architecture, of Human Rights legislation. We see LGBTQIA+ people in an increasingly violating scenario, especially for those who are homeless because of their affective orientation and gender identity.

Hence, in light of the expanded participation allowed by Global Governance, it is possible to conceive the hypothesis of positive interference of Non-Governmental Organizations (NGOs) in this scenario, not as subjects, but as actors of robust value, to the promotion of the guarantor narrative, in order to decriminalize, equalize and foster the protection of LGBTQIA+ people. To dialogue with International Human Rights Law and to rescue in it the primacy of equal treatment, the prohibition of discriminatory treatment and the very characteristic of its universal application, to allocate it to its uniform implementation, is to excel in respect for the needs of the individual and to enshrine the protection of their vulnerabilities in the face of state arbitrariness.

This research, with the general objective of promoting the understanding of the role of NGOs within the narrative of Human Rights, with emphasis on the LGBTQIA+ homeless population, also intends, albeit to a lesser extent, to understand the mechanisms of social exclusion and their origins, to identify the conceptualizations of these Organizations, as well as to review the concept of Global Governance, especially with regard to expanded

participation, in order to compare the (positive) interference of LGBTQIA+ Human Rights NGOs in the promotion of the protection of people in this community. After all, it must be seen that, in the leading role assumed by Global Governance in the international scenario, especially in relation to the formatting of the global agenda, the expanded participation of non-state actors (one of its foundations) has been growing and improving the protectionist grammar of Human Rights.

In conclusion, through the collection of assets, it was decided to use the hypothetical-deductive method. We sought to analyze the data regarding the homeless population, especially those referring to the reason why people were relegated to this condition: as a consequence of their affective identity or gender expression, outside the cisheteronormative spectrum.

There is a forced placement of LGBTQIA+ people on the streets due to discrimination, as well as, perceiving such violations, the effective participation of NGOs in defense of LGBTQIA+ Human Rights in the promotion and protection of the Human Rights of LGBTQIA+ people, with emphasis on their reports, personifying the participation of international non-subjects in the construction of a normative paradigm of safeguarding in the Resolutions of the UN Human Rights Council.

MECHANISMS OF SOCIAL EXCLUSION AND THEIR ORIGINS

The organization of social systems dates back to a period long before the establishment of the concept of civilization among the very populations that composed them. Observing the behavioral pattern of human beings, we remember that, even after thousands of generations of evolution of the species and society as a whole, we must still keep in mind that we are, first and foremost, social animals – sometimes more animals, sometimes more social (Cavalcanti, 2019). But not only social animals, but political animals, such as social insects (such as ants and bees), as the Greek philosophers Aristotle and Socrates observed. Holding this knowledge about human societies and those of some species of insects, it is interesting to analyze a situation that leads to conclusions regarding certain types of behavioral patterns of the human being (Plato, n./d.).

The French naturalist Gaston Bonnier, according to Ferreira (2017) studied the behavior of bees in his country for several years, identifying an oppressive regime within the colony, where the workers had a cycle of hard work while they were useful and healthy, becoming nurses and teachers for the younger ones after a certain age, and being expelled

from the hive when they reached the end of their lives or when they were in a physical condition that was not beneficial to its operation. It is understood from the example mentioned above that, in fact, the banishment of non-functional members of society is a common and recurrent mechanism in more than one animal species. The most pertinent issue to analyze, in relation to this, is how morality and value judgment interfere within the social reality of the human being, and how this leads to the expulsion of certain minorities not belonging to the structurally predominant and historically established groups (Ferreira, 2017).

In the book "Totem and Taboo", neurologist and psychiatrist Sigmund Freud (1913/2013) described behaviors of Polynesian cultures that were organized through a totemic system to establish their social and family organization. The text is considered the foundation of Freudian anthropology, and was fundamental for clinical reasons of the physician himself, since he recurrently identified a certain distancing of male children, aged between three and five years, in relation to father figures, and a marked approximation with maternal figures (Freud, 2013).

However, the question posed in this work by Freud (2013) that we lend for analysis is not the correlation between totemic incest and the roots of family structures, but rather the relationship between taboo and the categorical exclusion of the social group, in order to exempt it from some penalty. The tribal culture of Australia was organized through family totems, totems that established the functions of individuals, their allies, enemies and even with whom they could have sexual relations: individuals who had relationships with members of the same totem were given the stigma of incestuous, even if they did not share any blood relationship with their eventual partners (Freud, 2013). The penalties for such amorous and sexual activities ranged from banishment to death, since the members of those societies believed that such sacrifices would ward off possible punishments from superior spiritual entities, with whom they established all their rules.

With this study by Freud, one begins to relate the tendency of political animals to banish their most problematic members with value judgments and moral precepts coming from each particular community. To this end, it is imperative to understand the Jungian concept of the archetype, and from this point on, it is possible to establish the dogmatics of the id that marginalize the social group (Cavalcanti, 2019). In 1919, the concept of the archetype was born, coming from the studies of the Swiss psychoanalyst, Freud's apprentice, Carl Gustav Jung, according to which:

Archetypes are, by definition, factors and themes that order psychic elements, forming certain images (to be designated as archetypal), but in a way that they can only be recognized by the effects they produce. They exist preconsciously and are supposed to form the structural dominants of the psyche in general.

As a priori conditions, the archetypes represent the special psychic case of the "pattern of behavior" familiar to the biological and that lends all living beings its specific type. Just as the manifestations of this basic biological plan can change in the course of development, so can those of the archetype. Empirically, however, the archetype never arose within the range of organic life. He enters the scene with life (Jung, 1971).

An interesting point to observe in this quote is the word with which it ends: the concept of "life" is extremely comprehensive, abstract and, at times, even playful; however, in the context of the excerpt, life is understood as interpersonal relationships, arising from an accumulation of experiences, information and relationships over generations of a given group (Jacobi, 2016). It is curious to observe the dynamics regarding the meaning of this word, since, for Jung, the human psyche, or the whole of the human mind, is divided into: conscious (the "distribution" of the mind responsible for the issues that we pay more attention to during our daily lives), personal unconscious (where characteristics considered to be properly of the individual are allocated, either by social precepts or by personal conclusions, details too irrelevant to demand attention), and collective unconscious (where non-individual psychic structures are found, which influence our way of acting and dealing with our environment and our personal perception) - it is in this specific part of the human psyche that the abode of archetypes is present (Jacobi, 2016).

Having given these theoretical precepts, it is pertinent to understand that the accumulation of information culturally passed from generation to generation has a function in our daily lives as something automated: the prerogatives established in the individual's unconscious during their development are not usually revisited in the adult phase of life. And it is precisely at this moment of the life cycle that the subject passes on to other generations, his knowledge, experiences and pre-established concepts of life, rarely questioned.

With this ease provided by evolution not only in the biological sense, but in the social sense, the minutiae of major activities for the individual's belonging to his groups take up most of the individual's conscious activity. As a consequence, dangerous and harmful

precepts are trivialized by simply not subverting them to the detriment of a tiny portion of attention to such concepts or cultural dogmas (Jacobi, 2016).

LGBTPHOBIA AND HOMELESS PEOPLE

We cannot fail to reiterate that, as said, the prejudice promoted against people from the LBGTQIA+ community is crystal clear, very well observed even in spaces of conservatism and intolerance. In the same vein, the pathologizing process or characterization of sexuality "divergent" from cisgender normativity as a sin, collaborated with the maintenance and aggravation of symbolic, physical and moral violence (Vieira; Cardin, 2018).

In the present research, the focus was precisely on this audience: LGBTQIA+ people who are forcibly incorporated into the homeless situation, due to the prejudice and violence existing in their homes. This exodus to the street occurs through the externalization of prejudice in two ways: direct, when the expulsion of that family member occurs; and indirect, when, because of the prejudice suffered within the home, the LGBTQIA+ person voluntarily leaves his or her home (Vieira; Cardin, 2018).

Although the family can be recognized as a place of fulfillment and affection, which promotes the development of its members, this does not always occur for those who do not subsume themselves to the parameters predefined by society (Vieira; Cardin, 2018). This non-acceptance, both of the affective identity and of the externalization of the gender of the LGBTQIA+ person, by the family, causes a dispute among its members.

Domestic lgbtphobia is perceived when the individual contradicts the expectations of affective identity and gender expression supposedly congruent with his or her genitalia, or when he or she shows affection to his or her partner in a non-private environment (Soliva, 2011). With the family's resignation in the face of that frustrated expectation in the face of the real affective or gender identity of the LGBTQIA+ person, the violating process begins, mainly backed by attitudes that hierarchize or seek to annul the subjects for their differences, and at this point we see that:

Although hierarchization and inferiorization are distinct processes, they are absolutely complementary, and this complementarity has historically been used in the maintenance of inequalities and in the intensification of processes of social exclusion, which can occur in a wide variety of ways, ranging from human annihilation and social violence to subalternized forms of inclusion. thus evidencing

how serious these processes can be that afflict a society as a whole, and not just certain social groups (Prado; Machado, 2008:68).

According to Cazelatto and Cardin (2016:98), under the aegis of the studies of Marilena Chauí,

[...] it is observed that homophobia, as an act of violence, goes beyond the conduct of "hitting" or "cursing", it represents the number behaviors of repression, exploitation and domination, which aim to repress the *victim* 's status as a human being to transform him into a thing, devoid of interests or rights.

This discriminatory behavior against the LGBTQIA+ person by their family members often results in an exit movement, both in the forced form (such as expulsion) and voluntary, by intimidation to see oneself out of that violating scenario, resulting from a clear coercion for the "divergent" subject to leave the home, even if he does not have the resources to do so (Soliva, 2011).

Proof of this is the research promoted by Garcia (2013) that sought to delimit a common fact among the subjects interviewed in shelters in the central region of São Paulo. Among other issues related to the interviewees' families, it was found that abandonment occurred, as already mentioned, directly or indirectly. In the first case, the interviewees were de facto expelled from their domestic family environment, motivated by the non-acceptance of the "homosexual posture". In other words, it was found that both affective and patrimonial abandonment had been committed, since, in addition to the repression of the individual's affective-sexual identity, there was the deprivation of access to goods. In another way, but no less relevant, it was found by the research that there were LGBTQIA+ people who withdrew from their homes even without any financial and affective structure to do so, in order to avoid the emergence of conflicts or the aggravation of those already existing, choosing to live on the streets because they refused to live in a hostile environment (Garcia, 2013).

As for the estimation of numbers, the scenario is one of scarcity of data (Medeiros; Amorim; Nobre, 2020). This lack of statistical information on gender issues and sexual diversity in the context of homeless people can also be seen at the international level, while many studies are still unable to specify the percentages of LGBTQIA+ people living on the streets. Some of these studies focused only on LGBTQIA+ adolescents and young people

in this situation, most of them concentrated in the United States of America (Cochran et al., 2002; Kruks, 1991; Ray, 2006; Woronoff; Road; Sommer, 2006), with one from the United Kingdom (Cull; Platzer; Balloch, 2006) and another from Australia (Mallett et al., 2009).

It is worth making a methodological consideration from the outset: the data showed divergent situations, ranging from 6% to 11% and reaching up to 35% (Cochran et al., 2002), 20% to 40% (Ray, 2006) and also 40% of homeless people in the United Kingdom (Cull; Platzer; Balloch, 2006). The authors of the aforementioned studies intended to discuss the greater vulnerability of the group (LGBTQIA+ adolescents and young people) living on the streets, also reaching the conclusion that physical violence, sexual abuse (Cochran et al., 2002) and family conflicts motivated by sexual orientation or gender identity are the most significant reasons for the subjects evaluated to be homeless (Ray, 2006).

In Brazil, more specifically in the city of São Paulo, based on data presented by a survey carried out by the Secretariat of Social Assistance and Development (São Paulo, 2019), in 2019 there was an estimate that approximately 11% of people who were homeless belonged to the LGBTQIA+ population, and that due to their sexuality or gender identity they had been placed in this situation. It should be noted that it is not intended here to compare the numbers of surveys carried out in other parts of the world with the numbers of the city of São Paulo, leading to a false perception that in Brazil (more specifically in the city of São Paulo), because the numbers are lower, there would be less discrimination. No, definitely not: this is said because the differences in demographic context between the surveys make comparisons and conclusions in this sense unfeasible.

Thus, we were able to verify that, because prejudice against LGBTQIA+ people is externalized in different ways, including within the homes of these subjects, whether in a symbolic, physical or verbal way or in a more extreme form of violence such as expulsion or coercion to leave the home, they end up leaving their homes without any resources to do so, whether economic or other necessary, which ends up making these people even more vulnerable by putting them on the streets.

NGOS: REVISITING CONCEPTS

Before focusing on the role of NGOs in the field of International Human Rights Law, it is useful to review concepts, albeit briefly, in order to systematize the best epistemological approach. Let us see: NGOs are a kind of non-state actors that play a fundamental role within global civil society, which, as Eduardo Matias (2005) pointed out, is not only formed

by those who are independent of States, but also by civil society actors, whose forms of organization include NGOs focused on the interests of certain social groups (Brown et al., 2000).

There is no doubt that NGOs have a leading role on the international scene and, in particular, in Public International Law. However, there is, in the doctrine, the consolidated understanding that they do not have the legal nature of subjects of Public International Law, and in this sense are also the lessons of Bobbio (1992:856):

[...] the fact that International Organizations have to be constituted, [...] by agreement between the subjects of International Law, excludes *per se*, that [...] those other forms of association that are not constituted by means of international legal acts, commonly designated as non-governmental organizations, can be included.

Noortmann (2001 *apud* Art; Noortmann; Reinalda, 2001), still on the subject of the legal personality of NGOs, made a reservation in the sense that, in order to have legal personality in International Law, the actor must meet three criteria, which are: (1) to have the capacity to file complaints of rights violations; (2) to participate in the relationship with other subjects of International Law and to reach valid agreements; and (3) have privileges and immunities of national jurisdiction. These criteria are not observed in NGOs, which, according to this reading, cannot be considered Subjects of International Law, but rather actors who participate in this system. The author also points out that the analysis of the relevance of the role played by non-state actors should not be restricted only to areas such as commercial arbitration or institutional arrangements with international organizations: "If the globalization process does indeed have an impact on the development of International Law, the practice and opinions of non-state actors can no longer be excluded from the evaluation of this Law" (Noortmann, 2001 *apud* Art; Noortmann; Reinalda, 2001:74).

There are two striking features of NGOs that make them differ from other types of non-state actors: their public purpose and their socio-political character (Gonçalves; Costa, 2011). Following the understanding of Gislaine Caresia (2005), NGOs are organizations that, although private and self-governed, are non-profit, and in which participation is voluntary, promoting a socio-political purpose in their public action.

NGOs are of distinct value in the international scenario, since, because they are equidistant between governments (States) and markets (private sphere), formed by civil

society (citizens who act collectively), they synthesize the expression of the interests of the civil community, as well as information for the improvement of the international scene, precisely because they have specific actions focused on each theme, thus providing a greater competence to the nuances to be solved. In fact, Principle No. 27 and Additional Recommendation "j" of Yogyakarta (2007) are noteworthy. Here is the literality of these provisions, respectively:

Everyone has the right to promote the protection and application, individually or in association with others, of human rights at the national and international levels, without discrimination on grounds of sexual orientation or gender identity. This includes activities aimed at promoting the protection of the rights of people of diverse sexual orientations and gender identities, as well as the right to develop and discuss new human rights norms and to advocate for their acceptance.

[...]

All members of society and the international community have responsibilities related to the application of human rights. Thus, we recommend that:

[...]

(j) Non-governmental organizations working on human rights at the national, regional and international levels promote respect for these Principles within the framework of their specific mandates; (Yogyakarta, 2007:35-36)

In Yogyakarta, and when it comes to the promotion of Human Rights, in this specific case in relation to LGBTQIA+ people, NGOs are allowed to promote the protection and application of human rights at the national and international level, according to the respective framework linked to their mandate and extension of the area of action. And it is through the permissive franchisee for expanded participation, erected by Global Governance, as will be seen below, that NGOs, especially with regard to the spectrum of this writing (LGBTQIA+ Human Rights) allow this population, historically and culturally marginalized, to be heard together, strengthening their protests, struggle for rights and search for alternatives (Piovesan; Ikawa, 2010).

GLOBAL GOVERNANCE AS A PROTAGONIST ON THE INTERNATIONAL SCENE

It must be understood preliminarily that global governance emerges permeated by the contemporary paradigm of global society (Gonçalves, 2011). In this same global society, as previously observed, there is a shift from the sovereign State, that absolute monopolizer of the exercise of power, both in domestic and international boundaries, to a

new reality in which two other levels of power are now circumscribed: the transnational and the supranational.

From this new "lens", power is visualized as being shared synchronously between States and other characters, which has become imperative in the face of the emergence of new institutions, with their silhouettes drawn by international regimes. Global governance erupts as a system that is no longer restricted to the functions of states: "it is also distinguished by the existence of an infinity of actors, many of them non-state, who have their own structures and decision-making processes" (Matias, 2005:462.)

This overcoming of the classic dictates of state sovereignty, in the face of the increase in integration that globalization has provided (and still provides), as it gradually causes the suppression of some other attributions, mandates and authorities of national states, means that those other actors, especially NGOs, start to appear on the scene with participation in the discussion and solution of problems. We are currently facing "governance without government" (Gonçalves, 2011:42).

Activities supported by a formal authority and by the police power support the governments that rely on them to testify to their instituted policies, whereas, as for governance, the "activities supported by common objectives, which may or may not derive from legal and formally prescribed responsibilities and do not necessarily depend on the police power to be accepted and overcome resistance" (Rosenau, 2000:15).

As Alcindo Gonçalves (2011) teaches, the definition of global governance is made up of four dimensions that, when observed synchronously, underpin its framework. Here is the scenario we have: (1) governance as an instrument, a procedure for an end, which (2) presupposes the expanded participation of actors in decision-making processes, (3) based on consensus and persuasion, to the detriment of coercion and obligation, and (4) has an institutional dimension, inferring the participation of actors capable of delimiting attributions, promoting the dynamism of collective actions (Young, 1994).

By way of conclusion, still on the subject under discussion, it is worth mentioning the report of the Commission on Global Governance (1996). This document, in order to expand the latitudes of the actors able to participate in the process of integrating the international scenario, defined governance as "the totality of the various ways in which individuals and institutions, public and private, manage their common problems" (Commission on Global Governance, 1996:2). He also highlighted expanded participation when he reformulated that the idea of governance, in its essence, previously envisioned as a set of

intergovernmental relations, became a franchisor of participation, especially to "non-governmental organizations (NGOs), civil movements, multinational companies and global capital markets" (Commission on Global Governance, 1996:2).

THE CASE OF LGBTQIA+ HUMAN RIGHTS NGOs

As already seen, NGOs have unique relevance in the international scenario while, because they are not part of the structures of States and markets, they are not affected, at least in theory, by influxes from them, because, moreover, their formation is given by civil society which, by acting collectively, manages to compendium and substantiate the interests of that particular civil community. In addition, still regarding its relevance, it was seen that the information provided by NGOs for the improvement of the international scene, precisely because it is specific and in-depth to each theme, ensures that the treatment and the response given to the point to be solved can be effective.

There are, around the world, a large number of NGOs focused on Human Rights, including those of the LGBTQIA+ community, such as *Human Rights Watch*, which, in 2010, reported 47 complaints of violence against LGBTQIA+ people - however, it is known that these numbers are much higher (Human Rights Watch, 2010). Fear, marginalization and the delegitimization of speech are factors that influence many victims not to report to the authorities – most of whom are also homophobic. The lack of visibility of this type of violence (by the way, criminal) is the biggest difficulty for the formulation of public policies, including international ones, to protect the LGBTQIA+ community and to confront lgbtphobia.

The State of Kyrgyzstan in 2011, because of repeated commissive and omission practices of LGBTphobia, merited a separate report by *Human Rights Watch* (2011). The Report, in detailing the violence in that country, pointed out, among others, the practice of rape against lesbian women and the attempt to impregnate them. These crimes have been called "corrective rapes" because they have the supposed purpose of modulating the affective identity of women by their sexual orientation, as there is a myth that lesbians who are raped by men would "change" their sexual orientation (United Nations, 2007). *Human Rights Watch* also produced specific reports on homophobia in Cameroon, Jamaica, Iran, and Senegal.

According to data from the *European Union Agency for Fundamental Rights* (2009), in the United Kingdom – it should be noted, the only one that published official data on

cases related to homophobic crimes – 988 criminal cases were initiated in 2007, of which 759 resulted in conviction. London-based *Stonewall* conducted a study that ultimately resulted in a report highlighting that one-third of lesbians and one-quarter of gay men had experienced homophobia (verbal or physical aggression) in the previous three years (Dick, 2008). This report also cites Brazil, when it evaluates the event in which two lesbian women were assaulted at the police station and forced to perform oral sex (Dick, 2008). Other such cases have been reported in Nepal, El Salvador and Uzbekistan. In El Salvador, a transgender woman was imprisoned in an all-male cell, being raped more than 100 times, often with the complicity of police officers.

Wouldn't data like this be more than relevant to the formatting of international public policies to promote the protection of LGBTQIA+ Human Rights? Certainly yes.

We cannot forget that the qualification of an NGO as an advisor is one of the most relevant forms of access, by civil society, to the United Nations (UN) system, enabling these organizations to present verbal testimonies and written reports at meetings of the Organization. With this *status*, LGBTQIA+ Human Rights NGOs promote the expansion of the attention given by the UN to the violation of human rights and discrimination based on sexual orientation and gender identity. This is what happened with the Brazilian Association of Gays, Lesbians, Bisexuals, Transvestites and Transsexuals (ABGLT), which also gained consultative status with the United Nations Economic and Social Council (ECOSOC) in 2009 (ABGLT, 2022).

Founded in 1978, ILGA World (International Lesbian, Gay, Bisexual, Trans and Intersex Association) has consultative status with ECOSOC (ILGA World, 2011). In its latest annual report on State Homophobia signed by Mendos et al. (2020), ILGA World revealed alarming scenarios regarding the situation of LGBTQIA+ Human Rights around the world, as summarized in Figure 1. It should be noted that, of the 196 countries submitted to the study, 69 countries, 1 non-independent territory and 2 jurisdictions of member states criminalize same-sex relations and expressions of affective and gender identity of LGBTQIA+ people, 11 of them with the death penalty. In addition, 42 countries limit the freedom of expression of LGBTQIA+ people.

With the necessary time frame, the first time that the UN considered LGBTQIA+ Rights as Human Rights, through its Human Rights Council, materialized with Resolution A/HRC/17/L.9 (United Nations, 2011a), also called Resolution 17/19. On the occasion of the General Assembly at its 17th Session, the Human Rights Council expressed its grave

concern about the acts of violence and discrimination, in all regions of the world, committed on the basis of the sexual orientation and gender identity of the victims⁷

Figure 1 - State homophobia - update of the global panorama of world legislation in 2020



Source: Mendos et al. (2020).

Also in this Resolution (United Nations, 2011a), the High Commissioner requested, among other topics, a study with the purpose of documenting the laws, discriminatory practices and acts of violence committed against people because of their sexual orientation and gender identity in all regions of the world, as well as the ways in which international human rights law could be applied to put an end to violence and related human rights violations motivated by guidance sexual and gender identity. The Resolution also defined the promotion, during the 9th Session of the Human Rights Council, of a discussion panel based on the information brought by the study, in order to inaugurate a constructive dialogue, strengthened by data on the situation of LGBTQIA+ people and transparent on issues related to discriminatory laws, practices and acts of lgbtphobia, culminating in proposals for follow-up and monitoring of recommendations eventually presented.

⁷ The Resolution was approved with 23 votes in favor: Argentina, Belgium, Brazil, Chile, Cuba, Ecuador, Slovakia, Spain, United States of America, France, Guatemala, Hungary, Japan, Mauritius, Mexico, Norway, Poland, United Kingdom of Great Britain and Northern Ireland, South Korea, Switzerland, Thailand, Ukraine and Uruguay. There were 19 votes against: Angola, Saudi Arabia, Bahrain, Bangladesh, Cameroon, Republic of Djibouti, Russia, Gabon, Ghana, Jordan, Malaysia, Maldives, Mauritania, Nigeria, Pakistan, Qatar, Republic of Moldova, Senegal and Uganda. And three abstentions: Burkina Faso, China and Zambia.

Then, after the opening provided by Resolution A/HRC/17/L.9 (United Nations, 2011a), the Report of the United Nations High Commissioner for Human Rights, entitled "Discriminatory Laws, Practices and Acts of Violence against Individuals on the Basis of Their Sexual Orientation and Gender Identity", presented on November 17, 2011 under the following numbers: A/HRC/19/41 (United Nations, 2011b). In the study, it was concluded that there were very well-defined patterns of violence and systematic discrimination based on the affective-sexual identity of LGBTQIA+ people, which demands a response, as Governments and Intergovernmental Bodies were frequently neglecting this violence and discrimination.

In a still timid way, the Resolution (United Nations, 2011b) highlighted to the States Parties that the obligation to protect LGBTQIA+ people from any form of discrimination included the guarantee that same-sex couples were treated in the same way and had rights to the same benefits of rights as heterosexual couples, as understood in the *Young v. Australia* (United Nations, 2011b). In this Resolution (United Nations, 2011b), ILGA was cited four times regarding its studies and information made available.

On May 4, 2015, updating the international guidelines for the protection and diagnosis of the situation of homophobic and transphobic violence, as well as discrimination based on sexual orientation and gender identity, Report A/HRC/29/23 (United Nations, 2015) was prepared in the same way as its predecessor, with further recommendations to Member States, national human rights institutions, and the Human Rights Council. Another document of the Human Rights Council in which ILGA's data and reports served as a fundamental subsidy for the reports. The relevance of ILGA's reports and speeches is also perceived in resolutions A/HRC/35/36 (United Nations, 2017) and A/HRC/41/45 (United Nations, 2019), of the UN Human Rights Council, both revisiting issues related to violence and discrimination on the grounds of sexual orientation and gender identity.

The UN Human Rights Council also enshrines the rights to equality and non-discrimination in its international writings as being, in the context of the protection of the rights to diversity in the UN system, of distinct value and urgent application in observance. However, it is necessary to highlight a necessary fact: the understanding that the States Parties would not have, under international law, an obligation to recognize marriage between persons of the same sex was maintained, but, in a contradictory way, in its recommendation No. 79, h, it demanded that same-sex unions and their children be recognized by law, so that benefits traditionally granted to heterosexual couples (such as

those relating to pensions, taxes and inheritance) were granted on non-discriminatory terms.

Note the conflicting understandings in the speeches of the UN Human Rights Council, which, although they recognize and demand from States the equitable application of Human Rights in favor of LGBTQIA+ people, especially the rights of equality and non-discrimination, ends up contradicting themselves by relativizing the right to equal marriage. There is still much to be done. Now, if the rights to equality and non-discrimination should be applied in favor of LGBTQIA+ people, it is not reasonable to relativize the right to equal marriage; because, in this way, it would be going against the very premise of equal and non-discriminatory treatment, allowing the differentiation of rights by an affective-sexual identity, which is inconceivable in the current horizon of Human Rights.

Moreover, the recognition of these rights on the international stage is not an end in itself, but an integral part of the protection of human rights from a multilevel perspective – in other words, the protection given under the global, regional and local order. In such a composition, the relevance of regional systems for the protection of Human Rights is noticeable, as these actors are indispensable to the foundation of the fight against discrimination and the promotion of equal LGBTQIA+ rights in the national legal systems under their jurisdictions (Piovesan, 2014).

FINAL CONSIDERATIONS

After understanding the issues discussed, it is not possible to exempt oneself from the conclusion that there is a system harmful to those who follow non-functional standards for the machinery of capitalist patriarchy molded under the observance of the canonical heteronormativity of the Church. The various official and unofficial inquisitions have established in the psyche of the social individual, no matter how empathetic and conscious they may be, a notion of strangeness in relation to the LGBTQIA+ community and an unhealthy naturalization of inhumane treatment in relation to this group. Even if this happens at first, the immediate reaction of the average member of Eurocentric society is one of ordinariness when faced with members of the LGBTQIA+ community having their rights openly curtailed and disrespected.

The minutiae of the automation of the daily life of the average citizen do not leave room for questioning the harmful precepts worked for centuries to instill in the collective unconscious the idea of what is common and what is "distorted" and dispensable. The

diaspora of the LGBTQIA+ community has been promoted year after year, both in a clearly violent way (as in the case of expulsion), without any subsidy or economic resources, and in a way that makes it impossible to live with their aggressors, promoting the forced "voluntary" departure of this "divergent" member, exposing them to homelessness.

In these terms, in view of all that has been explained, it can be seen that NGOs, which are a kind of non-state actors, play a fundamental role within the system of global civil society. This, as has also been seen, is not only formed by those who are independent of the States, but rather, unlike governments (focused on the public interest), or companies and businesses (focused on private profit interests), the actors of civil society, including NGOs, turn to the interests of certain social groups.

Furthermore, with the change from the sovereign State, which was the monopoly of the exercise of power, to a new reality in whose circumscribed states, from a new "lens", power came to be seen as being shared synchronously between states and other characters – which gave rise to new institutions, with their silhouettes designed by international regimes. Global governance, therefore, is transformed as a system that is no longer restricted to the functions of states, also differentiated by the existence of an infinity of actors, many of them non-state, which have their own structures and decision-making processes.

Through the report of the Commission on Global Governance (1996), the expansion of the latitudes of the actors who have become able to participate in the process of integrating the international scenario is perceived, since governance has been defined as the totality of the various ways in which individuals and institutions, public and private, manage their common problems. In this same Report, expanded participation was highlighted, when it was formulated that the idea of governance, in its essence, previously envisioned as a set of intergovernmental relations, is now a franchisor of participation, especially to NGOs, civil movements, multinational companies and global capital markets.

Also regarding its relevance, it was seen that the information provided by NGOs for the improvement of the international scene, precisely because it is specific and in-depth to each topic, ensures that the treatment and response for each purpose is more effective, mainly, as seen in this text, with regard to LGBTQIA+ Human Rights. It was even seen that an NGO can hold the qualification of advisory before the UN system and that this quality is one of the most relevant forms of access by civil society to the system. It was also noticed that, with this *status*, LGBTQIA+ Human Rights Protection Organizations promote the

expansion of attention given by the UN to human rights violations and discrimination based on sexual orientation and gender identity.

However, after briefly visiting the situation of LGBTQIA+ Human Rights in the world, based on reports from NGOs such as *Human Rights Watch*, *Stonewall Organization*, ABGLT and ILGA World, a still violent scenario was perceived. It was noted, albeit in an introductory analysis, that of the 196 countries submitted to the ILGA World study, about 36% criminalize same-sex relations and expressions of affective identity and gender of LGBTQIA+ people, 15% of them with the death penalty. In addition, 25% of the countries analyzed limit the freedom of expression of LGBTQIA+ people.

Also regarding ILGA World, it has been cited four times in resolutions of the UN Human Rights Council, all examining issues related to violence and discrimination on the grounds of sexual orientation and gender identity. This is an excellent example of the work of Human Rights NGOs in favor of LGBTQIA+ people, as seen by Principle 27 and Additional Recommendation "j" of Yogyakarta. Such action becomes very relevant when we observe that, in the city of São Paulo alone (elected territorial cut), LGBTQIA+ people form approximately 11% of the homeless population, and find themselves in this situation because of their sexuality or gender identity.

This time, considering the permissiveness allowed by global governance regarding expanded participation, NGOs (especially those in defense of LGBTQIA+ Human Rights) actively participate in shaping new horizons of the plexus of rights to be ensured to this community, a participation that is perceived and personified through the various quotes made by the UN Human Rights Council, subsidizing the documentation issued at the international level.

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