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Homotransphobia in Brazil: A precarious life Projec

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ABSTRACT
The article aims to discuss about the decisions of the Inter-American Court of Human Rights in the cases of Advisory Opinion 24 of 2017 and the case of Vicky Rodriguez v. Honduras of 2021. The approach seeks to critically discuss how the Brazilian legal system receives the decisions of the regional human rights system. Both cases concern the protection of social minorities, such as the LGTQIA+ community. As sources of research, we used the materials of court cases and bibliographic material with a critical approach to the subject, a critical approach to human rights, a critical approach to criminal law and to theory of law. The result of this article is to indicate the feasibility and convenience of adopting the view that the decisions of the inter-American system are binding and should be adopted by national jurisdictions.

Keywords: Protection of social minorities, LGTQIA+ community, Human rights, Inter-American Court, Homotransphobia in Brazil.

1 INTRODUCTION

The protection of the human rights of LGBTQIA+ people is an incipient subject in the discussions of international courts when compared to other issues and vulnerable groups. For this reason, understanding the recent jurisprudence of the Inter-American Court of Human Rights (IACHR) and the existing debates in the Inter-American Human Rights System related to democracy, the right to self-determination, the protection of life, integrity and the fight against hate speech and acts against the LGBTQIA+ population is fundamental in order to also situate the need to criminalize homotransphobia as a legitimate form of human rights protection.

This article will discuss two recent decisions by the Inter-American Court of Human Rights, namely Advisory Opinion 24 of 2017 and the Vicky Rodriguez v. Honduras case of 2021, a pioneer in the discussion of the rights of trans people within the Inter-American system. In addition, in order to situate these decisions in the Brazilian context, the article will briefly analyze the binding force of Advisory Opinions in the Brazilian legal system and reflect on how the Vicky Rodriguez case represents the beginning of an important debate for the protection of transgender people in the International Courts and how the decision will shape the jurisprudence of the Inter-American Court and serve as a fundamental parameter for all signatory countries of the Pact of San José de Costa Rica.

In Chapter 1, the article will briefly analyze Advisory Opinion 24 and the existing debates in internationalist doctrine on the scope and limits of these decisions for national states, and will thus discuss two main existing currents: the binding nature of Advisory Opinions and the effective control of the conventionality of these decisions in the face of domestic legal systems, and the role of the advisory jurisdiction as a mere assessment of conventionality and, therefore, non-binding as a mere hermeneutical exercise of the Court's understanding of the issues raised in the Advisory Opinions.

In the same chapter, there will be an explanation of the Vick Rodriguez v. Honduras case and its contextualization with democracy, human rights and the protection of vulnerable groups by the Inter-American Human Rights System. In this regard, it will be analyzed how the interpretation of human rights should be based on the principle of maximum effectiveness (pro personae) and on an emancipatory hermeneutics of human rights, based on the understanding of the Pact of San José de Costa Rica as a living instrument and fruit of the challenges of its time. As such, the partially dissenting vote of judge and president of the IA Court Elizabeth Odio Benito and the relationship between states and the Convention of Belém do Pará will be critically analyzed.

Chapter 2 will analyse the grounds for criminalizing homotransphobia from the perspective of International Human Rights Law from an emancipatory perspective. It will also situate criminal law as a legitimate instrument for protecting human rights and, finally, it will analyze the challenges inherent in recognizing LGBTQIA+ people as subjects of rights.

The main objective of the article will be to analyze the challenges faced by the Inter-American Human Rights System in promoting the rights of LGTQIA+ people, based on the analysis of Advisory Opinion 24 and the Vicky Rodriguez vs. Honduras case.

As specific objectives, the article will analyze the role of criminalizing homotransphobia from a viewpoint of criminal law as an instrument to guarantee human rights, it will address the relationship between democracy and human rights, how the LGTQIA+ population can have the right to recognition and, finally, it will establish that International Human Rights Treaties can be sources of incriminating criminal norms or, at least, generate specific obligations for states to criminalize homotransphobic conduct as a way of protecting human rights..

The methodology to be used in this research will be hypothetical-deductive, with the use of indirect documentary research, through the analysis of legislation, doctrine and case law. The chosen method is intended to confirm, in the end, the premises that the advisory opinions issued in the context of the advisory jurisdiction of the Inter-American Court of Human Rights are mandatory for the member states of the Inter-American System, a position that reinforces their binding force capable of consolidating the pro personae principle, and that the criminalization of homophobia, from a human rights perspective, is an important step in the protection of people LGTQIA+.

1.1 MOURNING AND THE PRECARIOUSNESS OF LIVES LGBTQIAPN+

In 2019, the Federal Supreme Court, by ruling on Injunction No. 4733 and Direct Action for Unconstitutionality by Omission No. 26, criminalized the practice of homotransphobia in Brazil, equating it to the crime of racism, a measure that should last until a specific law is passed by Congress. Although the news was greeted with joy by the LGBTQIAPN+ community, as it is a considerable step forward in protecting the rights of this community, there is still a lot to work on, since the situation of massive violations persists, keeping the group in a constant state of alert and extreme vulnerability.

In November 2021, the research project *Transrespect versus Transphobia Worldwide -TvT,* do *Transgender Europe – TGEU*[1]- - the institution responsible for collecting global data on violence against transgender people, has published its annual report monitoring the murders of transgender people. The report pointed to a 7% increase in the number of murders compared to 2020, with 375 murders recorded between October 1, 2020 and September 30, 2021. Sadly, Brazil stands out for the 13th time as the country that kills the most transgender people in the world, with 125 murders, followed by Mexico with 65 and the United States with 53.

The omissive delay in criminalizing the practice of homotransphobia, coupled with total state incompetence in punishing such crimes, has turned Brazil into a terrible cemetery for LGBTQIAPN+ people. As death seems to mark the existence of these individuals, we have chosen to begin this essay by talking about mourning the lives lost in this process.

Right off the bat, a provocation is raised by Judith Butler, who asks "Which lives count as lives?", "What makes a life mournable?". The present year of 2022 and the Covid-19 pandemic have brought back discussions about the importance of funeral rituals in overcoming death, since health measures to control and prevent contamination have prevented the usual farewell ceremonies from taking place, causing many people to be unable to say goodbye to their loved ones, hindering the grieving process. In this context, a booklet was produced by the Oswaldo Cruz Foundation (FIOCRUZ), in partnership with the Ministry of Health, called "Mental Health and Psychosocial Care

[1] TVT tmm update. Trans day of remembrance 2021.TvT Project. 11 nov. 2021. Available in: https://transrespect.org/en/tmm-update-tdor-2021/. Accessed on July 27th.2022.

in the COVID-19 Pandemic: The Grieving Process in the Context of COVID-19", which conceptualizes grief as being "a natural process of response to a broken bond, that is, when we lose someone or something significant in our lives". This understanding of mourning as something directly linked to the value of the life lost, says a lot about how society has faced the high rates of violence and mortality linked not only to transgender people, but to the entire community LGBTQIAPN+.

Butler suggests that mourning has two dimensions: the private one, which involves the suffering and private process of each individual in dealing with the loss; and the political one, such as that felt in society, which determines which lives can be mourned. If, on the one hand, there is a body of science, medical and psychological, committed to understanding loss and helping to cope with the process of private mourning, on the other hand, there is an extreme ease of society in accepting the loss of thousands of LGBTQIAPN+ people, configuring a true absence of political mourning. The explanation for this irremediably lies in understanding that not all life actually exists for this society.

The ontology of a being, contrary to what is believed, does not happen with its birth, with its physical arrival in the world. A life only comes to be seen and therefore recognized as an existing life when it is read within a socially predetermined normative historical framework, what Butler calls "frameworks"[2.] These frameworks are the social meanings that the body takes on and through which it is accepted and therefore protected by society and its laws. This means that the body has a social ontology, that is, an existence conditioned to recognition by society, which allows or disallows a life to be seized. Butler explains[3]:

> (...) the epistemological capacity to apprehend a life is partially dependent on that life being produced in accordance with the norms that characterize it as a life, or rather, as part of life". This means that for a biological life to be considered a dignified life, worthy of the attention and recognition of others, it must fit into the set of moral and legal rules that authorize its existence (2015, p. 15).

Starting from the assertion that the apprehension of a life depends on a social, cultural and normative framework that allows it to exist, it is possible to say that there is a human dimension whose existence depends on its recognition by society itself. Life, therefore, is socially defined and authorized by those who fit into the prevailing cultural and normative system. In the same way, that same life can and is denied to those who don't fit into the required framework.

The social loss of humanity leads to what Butler calls a "precarious life". Precariousness is the mark of a life that, although biologically existing, is socially devoid of value. Since mourning is a tribute to social life, where there is no life, there will be no mourning. Rodrigues says[4]:

[2] BUTLER, Judith. Quadros de Guerra: quando a vida é passível de luto. Rio de Janeiro: Civilização Brasileira, 2015, p.14.
[3] BUTLER, Judith. Quadros de Guerra: quando a vida é passível de luto. Rio de Janeiro: Civilização Brasileira, 2015, p.15.
[4] RODRIGUES, Carla. O luto entre clínica e política: Judith Butler para além do gênero. Belo Horizonte: Grupo Autêntica, 2021. E-book. 9786559280520. Available in: https://integrada.minhabiblioteca.com.br/#/books/9786559280520/. Accessed on : 23 August. 2022.

> If every subject is exposed to death, precariousness is a condition of life's possibility and is induced by policies of discrimination, which work by separating natural life without value from symbolic life with value. The unequal distribution of public mourning is thus understood as a symptom - not all lives are equal - and as a policy of inducing precariousness into certain forms of life in which intersectional markers that underpin discrimination, oppression and violence operate (2021, s.n.).

In this sense, our reality is nothing more than a set of politically determined power relations that give the subject their intelegibility. These power relations are responsible for creating the normative scheme of subjects' intelegibility, marking those who may or may not be considered human. In the same way, normative frameworks are also responsible for determining which social bodies fit the concept of life.

Violence can only be directed against an existing life. The process of dehumanizing certain individuals, as in the case of LGBTQIAPN+ people, is a social tool for making lives more precarious and denying their existence. The denial of human and fundamental rights such as the right to sexual freedom, the prevention of emotional fulfillment through marriage and building a family, the refusal of the state and society to accept that each individual presents themselves and is socially recognized by the name and pronoun they choose, are just examples of how society uses cultural and normative frameworks to erase the existence of beings it considers undesirable.

This is how the normative schemes of intelegibility work, invalidating any attempt at humanity, making the name, the face, the body, the story, the narrative...life disappear, so that if there is no life, there is no need to talk about murders[5]. From the point of view of violence, it doesn't exist if there is no life to protect. You can't kill what never existed [6]. This brings us back to mourning and its role in society.

Mourning is an act of recognition and homage to a life whose loss is felt. Butler explains the obituary "as the instrument through which injustice is publicly distributed"[7], is the public declaration that those lives recorded were valuable, worthy of note and suffering. In this sense, it can be said that there is a "hierarchy of mourning", according to which some human lives deserve more mourning than others.

The distribution of mourning is actually a declaration of value. A message given to and by society that certain individuals are part of the world and, therefore, are missed and mourned. While for those forgotten, whose names and faces are lost in newspaper reports under the nickname "yet another death", they are left with the reminder that mourning is only due to those who really existed. The

[5] BUTLER, Judith. Vida precária: os poderes do luto e da violência. Translation Andreas Lieber; revisão técnica Carla Rodrigues. 1. ed. Belo Horizonte: Autêntica Editora, 2019. p.77.
[6] BUTLER, Judith. Vida precária: os poderes do luto e da violência. Tradução Andreas Lieber; revisão técnica Carla Rodrigues. 1. ed. Belo Horizonte: Autêntica Editora, 2019. p.54.
[7] BUTLER, Judith. Vida precária: os poderes do luto e da violência. Tradução Andreas Lieber; revisão técnica Carla Rodrigues. 1. ed. Belo Horizonte: Autêntica Editora, 2019. p.55.

denial of LGBRQIAPN+ lives long predates their death. A precarious and precarious existence by the various instruments and social actors, configuring a true politics of death or "necropolitics".

1.2 THE STATE AND THE POLITICS OF LETTING DIE

In order to understand homotransphobia in Brazil, it is first necessary to look at the actions of the state and the evolution of criminal sciences, and then understand how the choice of legal assets that can be protected by the country's legal system has been and continues to be eminently marked by heteronormativity, which, as Carvalho and Duarte advocate, is responsible for establishing privileges, promoting inequalities and legitimizing violence and oppression [8].

It is well known that the social, political and economic formation of Brazil is totally based on colonialism and its project of domination, engendered mainly by Catholic evangelization. The criminal sciences were no different. The Catholic Church was largely responsible in the West for producing what Foucault called the "truth of sex".”[9] , through which sexuality was used as a device, that is, as an instrument of the mechanisms of power to control bodies and produce discourses of truth.

Gradually, Christian dogma sanitized the discourse on sex, transforming into legitimate and authorized only sexual relations conceived within marriage, by heterosexual couples, for the purposes of reproduction. At the same time, in opposition to the legitimate heterosexual couple, another category of subjects was created, made up of all those who did not fit into heteronormative sexuality and who were pushed to the margins of society, reduced to the status of pathologies, perversions and criminality[10].

The influence of the church, however, has not been restricted to the field of sexuality, but has also had a major impact on the way Western society perceives the category of "gender". Studies indicate that the use of the expression "gender ideology" as a catch-all phrase for fundamentalist pro-family, pro-life, anti-feminist and conservative arguments was a reactionary Catholic creation against the emergence of feminism, gender studies, sexuality and women's reproductive freedom[11]. In this sense, researchers point to various ecclesiastical documents dedicated to (re)defining the concept of gender and its implications, as in the case of a note by Bishop Óscar Alzamora Revoredo, published by the Episcopal Conference of Peru in 1998 and entitled *La ideología de género: sus peligros y*

[8] CARVALHO, Salo D.; DUARTE, Evandro P. Criminologia do preconceito: racismo e homofobia nas ciências criminais. São Paulo: Editora Saraiva, 2017, p. 75. E-book. 9788547219628. Available in: https://integrada.minhabiblioteca.com.br/#/books/9788547219628/. Accessed on : 19 August. 2022.
[9] FOUCAULT, Michel. História da sexualidade I: a vontade de saber. 13. ed. Tradução de Maria T. da C. Albuquerque e J. A. Guilhon Albuquerque. Rio de Janeiro: Graal, 1999.
[10] FOUCAULT, Michel. História da sexualidade I: a vontade de saber. 13. ed. Tradução de Maria T. da C. Albuquerque e J. A. Guilhon Albuquerque. Rio de Janeiro: Graal, 1999.
[11] JUNQUEIRA, Rogério Diniz. A invenção da "ideologia de gênero": a emergência de um cenário político-discursivo e a elaboração de uma retórica reacionária antigênero. Rev. psicol. polít., São Paulo, v. 18, n. 43, p. 449-502, dez. 2018. Available in: http://pepsic.bvsalud.org/pdf/rpp/v18n43/v18n43a04.pdf. Accessed on 20 August. 2022.

alcances[12]. This document sought to reaffirm the idea that behind the term "gender" hides an ideology that seeks to undo the "natural" differences between men and women, implanting through language a false idea that genetic differences can be reinvented, undone by society. This discourse is still reproduced today.

Another important document to highlight is the so-called *Lexicon: termini ambigui e discussi su famiglia, vita e questioni etiche*, a controversial work, published in 2003, which was produced at the behest of the Pontifical Council for the Family and in collaboration with the Congregation for the Doctrine of the Faith.

with the collaboration of the Congregation for the Doctrine of the Faith. Consisting of 103 articles, written by more than 70 authors, the document functioned as a dictionary, which sought to clarify topics considered "controversial" on gender, sexuality, family and various other issues seen as ethical dilemmas for the Catholic Church [13]. Among the articles published, it is essential to highlight one in particular, written by Jutta Burggraf, a German theologian. As Junqueira explains, the text produced by Burggraf, based on the theology of the body, focused on arguing in favor of the biological differences between men and women, defending the hypothesis that the categories body, family, sex, female, male and heterosexuality were "natural" conditions, stemming from genetics, and that these differences interfere profoundly "in the organism and psychology of each person"[14]. A discourse strongly centered on the effort to reaffirm Christian values and dogmas and maintain Catholic hegemony.

In this context, society was built on a Christian "truth", which saw as "criminals", "strangers", "abnormal", "sinners" all those whose sexuality and affectivity did not fit into the patriarchal and heteronormative Catholic dogma. Under this binarism, man/woman, hetoro/homo, good/bad, a discourse on the truth of sex and gender was constructed, a discourse that became part of the knowledge of each era, including criminal knowledge.

Carvalho e Duarte[15], seek to explain how this device of knowledge and power, based on heteronormativism, ends up legitimizing different forms of violence against LGBTQIAPN+ people, classifying them as symbolic violence, institutional violence and interpersonal violence, thus saying:

[12] JUNQUEIRA, Rogério Diniz. A invenção da "ideologia de gênero": a emergência de um cenário político-discursivo e a elaboração de uma retórica reacionária antigênero. Rev. psicol. polít., São Paulo, v. 18, n. 43, p. 449-502, dez. 2018. Available in: http://pepsic.bvsalud.org/pdf/rpp/v18n43/v18n43a04.pdf. Accessed on 20 August. 2022.
[13] JUNQUEIRA, Rogério Diniz. A invenção da "ideologia de gênero": a emergência de um cenário político-discursivo e a elaboração de uma retórica reacionária antigênero. Rev. psicol. polít., São Paulo, v. 18, n. 43, p. 449-502, dez. 2018. Available in: http://pepsic.bvsalud.org/pdf/rpp/v18n43/v18n43a04.pdf. Accessed on 20 August. 2022.
[14] JUNQUEIRA, Rogério Diniz. A invenção da "ideologia de gênero": a emergência de um cenário político-discursivo e a elaboração de uma retórica reacionária antigênero. Rev. psicol. polít., São Paulo, v. 18, n. 43, p. 449-502, dez. 2018, p. 472. Available in: http://pepsic.bvsalud.org/pdf/rpp/v18n43/v18n43a04.pdf. Accessed on 20 August 2022.
[15] CARVALHO, Salo D.; DUARTE, Evandro P. Criminologia do preconceito: racismo e homofobia nas ciências criminais. São Paulo: Editora Saraiva, 2017, p. 76. E-book. 9788547219628. Available in: https://integrada.minhabiblioteca.com.br/#/books/9788547219628/. Accessed on : 19 August 2022.

> [...] I therefore believe that this complex process of legitimizing heterosexist violence could be broken down into three foundational levels that shape heteromoralizing and heteronormalizing cultures: the first, symbolic violence (homophobic culture), based on the social construction of discourses that inferiorize sexual diversity and gender orientation; the second, the violence of institutions (state homophobia), with the criminalization and pathologization of non-heterosexual identities; the third, interpersonal violence (individual homophobia), in which the attempt to annul diversity occurs through brutal acts of violence (real violence.).

Although the crime of homotransphobia is fraught with interpersonal violence, as evidenced by the high numbers of deaths and other crimes against LGBTQIAPN+ people, as well as symbolic violence, as evidenced in the topic on the precariousness of these lives, here we have chosen to place great emphasis on the violence of institutions in order to explain the criminal selectivity undertaken by the Brazilian state and its relationship with the crime of homotransphobia.

When carrying out an intersectional analysis of the Brazilian penal system, it is clear that criminalization is marked by race, gender and social class, as evidenced by the studies of Soraia da Rosa Mendes[16], Dina Alves[17] and so many other authors researching the vulnerabilities that plague the penal system. It is undeniable that, historically, the lives and bodies of the LGBTQIAPN+ population have been the target of constant criminalization by the state, which not only made them a target of the criminal law, but also excluded them from the list of legal assets deserving legal protection.

Foucault was already denouncing the biopower of the sovereign state, which, assuming total control over bodies and biological life, managed society and determined who could live or who should be left to die, in what has come to be called the biopolitics of populations[18]. Within this dynamic of domination of bodies and control of lives, the legal system, notably the law, has always served as a veritable weapon responsible for promoting training through punishment.

In the case of homotransphobia, once again the state is acting selectively in the protection of legal assets by not criminalizing the practice of homotransphobia through the creation of a typical criminal law, leaving the judiciary to fill this gap in protection through a decision that equates homotransphobia with the crime of racism. However, the Supreme Court's supplementary action alone is not capable of restoring the situation of extreme violence that plagues the LGBTQIAPN+ population, let alone repairing the damage caused so far, which is why we will now analyze the role of the Inter-American Court of Human Rights and its participation in punishing crimes of homotransphobia.

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[16] MENDES, Soraia da R. Série IDP Criminologia Feminista Novos Paradigmas. São Paulo: Editora Saraiva, 2017. E-book. 9788547221706. Available in: https://integrada.minhabiblioteca.com.br/#/books/9788547221706/. Accessed on : 21 August 2022.

[17] DINA. Alves. Rés negras, Judiciário branco: uma análise da interseccionalidade de gênero, raça e classe na produção da punição em uma prisão paulistana. Revista CS, 21, pp. 97-120. Cali, Colombia: Facultad de Derecho y Ciencias Sociales, Universidad Icesi, 2017.

[18] FOUCAULT, Michel. História da sexualidade I: a vontade de saber. 13. ed. Tradução de Maria T. da C. Albuquerque e J. A. Guilhon Albuquerque. Rio de Janeiro: Graal, 1999.

2 HOMOTRANSPHOBIA AND THE DAMAGE TO A LIFE PROJECT

2.1 THE ADVISORY OPINION 24 AND THE VICKY HERNANDEZ VS HONDURAS CASE OF THE INTER-AMERICAN COURT OF HUMAN RIGHTS: A BRIEF ANALYSIS

Article 64 of the American Convention on Human Rights (Pact of San José de Costa Rica) regulates the so-called advisory jurisdiction within the framework of the Inter-American Court of Human Rights, in the following terms:

> 1. The member states of the Organization may consult the Court on the interpretation of this Convention or other treaties concerning the protection of human rights in the American states. The organs listed in Chapter X of the Charter of the Organization of American States, as reformed by the Protocol of Buenos Aires, may also consult the Court, as far as they are concerned.
> 2. The Court, at the request of a member state of the Organization, may issue opinions on the compatibility of any of its internal laws with the aforementioned international instruments[19].

Therefore, the IA Court, by express provision of the Pact of San José de Costa Rica, has the power to interpret international human rights treaties by issuing Advisory Opinions. Thus, Advisory Opinions are a power that the IA Court has to interpret the Convention, all treaties that have as their object the protection of human rights, to which an American state is a party, the provisions of international human rights treaties which, although they do not deal in a preponderant way with issues related to human rights, have in their content references to this issue and which have at least one American state as a party and the possibility of carrying out an analysis of the compatibility of the domestic law of any American state with any of the aforementioned international diplomas. (ROA, ROA, 2015, p. 33).

The contentious jurisdiction, exemplified here by the Vicky Hernadez v. Honduras case, on the other hand, represents a more incisive and detailed action by the Inter-American System based on a two-phase procedure, which consists of an initial analysis by the Inter-American Commission on Human Rights which, after any state inertia, can refer the case to the Inter-American Court of Human Rights, which is responsible for judging and holding states internationally responsible for human rights violations.

The Commission is initially provoked by a written petition, which can come from the victim themselves, representatives of the victim or even third parties, including non-governmental organizations (individual claims), or from another state (interstate claims). (RAMOS, 2019, p. 235). However, it is possible for the Commission to initiate a case against a particular state on its own, but this prerogative is rarely used by the body.

The fundamental requirements for admitting a petition to the Commission are: the exhaustion of domestic remedies, the expiry of a six-month period for representation, the absence of international

[19] Organização dos Estados Americanos, Convenção Americana de Direitos Humanos (“Pacto de San José de Costa Rica”), 1969. Available in https://www.cidh.oas.org/basicos/portugues/c.convencao_americana.htm. Accessed on 01 August. 2021.

lis pendens and the absence of international res judicata (RAMOS, 2019, p. 236). After this admission phase, the Commission begins a conciliatory phase, drawing up the first report and, in the event of non-compliance with the Commission's deliberations, the case can be referred to the Court, as happened in Vicky Hernandez vs Honduras.

After this brief contextualization of the Court's advisory and contentious jurisdiction and a correct presentation of the functions of the Inter-American Commission on Human Rights, the paper will analyze the binding force of Advisory Opinions.

2.2 THE BINDING FORCE OF ADVISORY OPINIONS IN RELATION TO THE BRAZILIAN LEGAL SYSTEM: A REFLECTION ON THE IMPORTANCE OF THE ADVISORY JURISDICTION IN PROTECTING THE HUMAN PERSON

According to article 64 of the Pact of San José de Costa Rica, the advisory jurisdiction of the Inter-American Court of Human Rights is an increasingly present reality in the Inter-American Human Rights System and represents a legitimate hermeneutical instrument for the realization of human rights and the realization of the pro personae principle. As such, debates have arisen in internationalist doctrine about the scope, limits and obligations of the domestic legal system to this instrument.

André de Carvalho Ramos (2009) states that advisory jurisdiction is a fundamental mission of the International Courts, alongside contentious jurisdiction. However, the author warns that it is not possible to attribute binding force to such advisory decisions, even though they provide greater legal certainty to the subjects of international law. This is also the view of Valério de Oliveira Mazzuoli (2013), who states that the IHL Court's exercise of advisory jurisdiction cannot be equated with control of conventionality, but only as an exercise to assess conventionality and, therefore, not binding on states.

The opposite view (LEGALE,2020) is that the advisory jurisdiction is binding on states, in a similar way to contentious cases. This is due to the fact that the protection of human rights must always be guided by progressive development and by elements that always aim to give the best interpretation, for the best protection of the human person. Furthermore, the legal force given by the international legal system to Advisory Opinions is a reality, since it is an exercise of the full jurisdiction of the IA Court, without prejudice to contentious decisions.

Siddharta Legale explains that the exercise of the Advisory Jurisdiction by the IA Court represents a true control of conventionality and is therefore binding on the signatory countries of the Pact of San José de Costa Rica, in the following terms:

> The central objective of the OC, according to the IA Court itself, is to "unravel the meaning, purpose and rationale of international human rights norms" (OC16/99 and OC-17/02). They do not serve to resolve questions of fact, since the protection of people's rights and freedoms falls to the contentious jurisdiction, which cannot "resolve abstract cases" (OC-14/94). As there

> are no actual defendants or actors, the defense of the state in the procedure is not a requirement (OC-03/83). By establishing the valid meanings for interpretation prior to concrete litigation, the IA Court ends up carrying out a control of conventionality prior to the contentious case (LEGALE,2020, p.239).

Jorge Ernesto Roa Roa shares this understanding and goes further by stating that it is increasingly difficult for the IA Court itself to differentiate the binding force of its Advisory Opinions from the judgments in contentious cases. This is the author's understanding:

> En efecto, como se citó textualmente, la Corte sostiene en la Opinión Consultiva 21 que las opiniones consultivas tienen relevancia jurídica para los Estados miembros de la oea y "para los órganos de la oea cuya esfera de competencia se refiera al tema de la consulta". Resulta apenas evidente que tal afirmación de la Corte la vincula también en cuanto órgano de la oea, con lo cual se crea una cláusula expresa de fuerza vinculante horizontal de las opiniones consultivas. Esta regla es la confirmación del resultado del estudio de esta investigación sobre la relación entre la función consultiva y la contenciosa. No obstante constituir un avance en la determinación de los efectos de las opiniones consultivas y en la coherencia interna de la Corte, persiste la contradicción entre la cada vez más clara fuerza vinculante de las opiniones consultivas y las propias manifestaciones de la Corte por diferenciar, en este aspecto, sus opiniones de otro tipo de decisiones como las sentencias de los casos contenciosos. Cada vez resulta más complicado para los investigadores y para la propia Corte explicar las diferencias entre los efectos de una opinión consultiva y los de una sentencia contenciosa, más allá de las características intrínsecas a cada uno de los procedimientos. Aún más, la Corte ha avanzado en una comprensión extraña de una función consultiva, de la cual derivan parámetros obligatorios para el órgano que emite el dictamen, para los órganos y Estados parte de la oea. A pesar de las críticas anteriores sobre la contradicción entre la doctrina de la Corte, la Opinión Consultiva 21 y el fenómeno material de fuerza vinculante horizontal y vertical de las opiniones, lo más importante es que la obligatoriedad de la doctrina (¿jurisprudencia?) consultiva de la Corte Interamericana redundará –seguramente– en una mayor protección de los derechos humanos en el ámbito americano (ROA ROA, 2015, p 141).

There is a middle ground which, although it does not recognize that states are specifically bound by the Advisory Opinions, recognizes their legal and moral force, especially since they are issued by the IA Court. In this sense, they can be considered important instruments for the protection of human rights, as follows:

> Puede decirse —en suma— que no obstante que tales opiniones no son obligatorias en sentido estricto, su fuerza radica en la autoridad moral y científica de la Corte; y si bien su esencia es típicamente asesora, no por ello deja de ser jurisdiccional, y tiene por objeto coadyuvar al cumplimiento de las obligaciones internaciona les de los estados americanos, en lo que concierne a la protección de los derechos humanos (HITTERS, 2008, p.150).

Thus, Advisory Opinions, in the current state of ius consticionale commune, represent a real instrument for transforming social reality and, in view of this, must be interpreted in the broadest possible way, in the sense of creating specific obligations *(facere)* for states..

2.3 THE ADVISORY OPINION 24 AND ITS RELEVANCE TO THE DEBATE ON THE RIGHTS OF LGTQIA+ PEOPLE IN THE INTER-AMERICAN HUMAN RIGHTS SYSTEM

Advisory Opinion 24 represented a milestone in the Inter-American Human Rights System, as it effectively recognized the rights of LGTQIA+ people and the state's duty to protect them against state arbitrariness. However, it is necessary to scrutinize the details brought by the state of Costa Rica to the Court and the debates held by the institution in order to conclude that the Pact of San José de Costa Rica covers the rights of this social minority. It is therefore essential to understand that the IACHR has, in its Rules of Procedure, some fundamental requirements for the admissibility of an Advisory Opinion, namely:

> Formal compliance with the requirements of articles 70 and 71 of the Court, the questions asked must be as precise as possible, specifying the provisions that are to be interpreted, indicating the considerations that give rise to them and providing the name and address of the Agent. In material terms, the Court recalls that on several occasions it has indicated that compliance with formal aspects is not enough for an effective response. In this sense, a concrete and foreseeable situation must be considered which justifies the interest in issuing an advisory opinion (CORTE IDH, 1979).

In the case in question, based on the interpretation of relevant norms, the answer given by the Court in OC 24/2017 was and will be of great importance for the states of the region, insofar as it will make it possible to specify the obligations to respect and guarantee human rights to all persons under their jurisdiction, implying concrete obligations that states must fulfill in terms of the right to equality and non-discrimination.

In this regard, the state of Costa Rica posed the following questions to the IA Court: are states obliged to facilitate the change of people's names in accordance with their gender identity; is it obligatory for states to provide a swift and free administrative procedure for changing people's names; is it obligatory to recognize the property rights of LGTQIA+ relationships and, finally, is it obligatory to create a legal institute that recognizes these rights? The Court answered these questions based on some basic premises:

The American Convention on Human Rights protects one of the most fundamental values of the human person, that is, their dignity, which is a fundamental human right enforceable *erga omnes* and represents an interest of the international community, not even admitting derogation and suspension.

The Convention therefore protects the inviolability of family life in the sphere of private autonomy and is therefore immune to abusive and segregating state interference. Furthermore, this protection is not restricted to the right to privacy, but also, and in a way that is emphasized here, to the right to free sexual development, personality, desires and prospects for building a better life. We therefore have the development and protection of the right to identity.

Therefore, the Inter-American Human Rights System protects the possibility for individuals, within their private sphere, to construct their own notion of life and happiness, being able, if they wish, to choose their name, their life, their citizenship, their freedom and the right to their physical and psychological integrity as the greatest expressions of human dignity.

Although there is no specific reference in the Convention to the right to identity, it can therefore be conceptualized as the set of attributes and characteristics that allow a person to be individualized in society and which, in this sense, includes various rights depending on the subject of rights in question and the circumstances of the case (SAAD, 2018, p.72).

In its decision, the IA Court conceptualized gender identity as the internal and individual experience of gender as each person feels it, which may or may not correspond to the sex assigned at birth, including the personal experience of the body (which may or may not include changing the appearance or function of the body through medical, surgical or other procedures, whenever this is freely chosen) and other expressions of gender, including dress, speech and manners. Gender identity is a broad concept that creates space for self-identification and refers to a person's experience of their own gender. Thus, gender identity and its expression take many forms; some people identify as neither male nor female, or identify as both OC 24,2017,p.15)

Based on the above, under the terms of Articles 11.2, 18 and 24, in relation to Article 1.1 of the Convention for the Recognition of Gender Identity, the Court's response to the State of Costa Rica's first question is as follows:

> Changing one's name, adjusting one's image, as well as rectifying the mention of sex or gender in records and identity documents, so that they are in accordance with one's self-perceived gender identity, is a right protected by Article 18 (right to a name), but also by Articles 3 (right to recognition of legal personality), 7.1 (right to liberty) and 11.2 (right to private life), all of the American Convention. Consequently, in accordance with the obligation to respect and guarantee rights without discrimination (Articles 1.1 and 24 of the Convention) and the duty to adopt provisions and domestic law (Article 2 of the Convention), states are obliged to recognize, regulate and establish procedures for these purposes (OC 24,2017,p.51).

The Court held, in response to the State of Costa Rica's second question, that the procedures for changing the name of individuals according to their gender identity must follow certain minimum standards, so that the right is in fact protected, preventing the rights of third parties from being affected by these facts.

However, in order to safeguard the right to identity, legal certainty cannot be left aside, guaranteeing stability in legal relations. The lack of legal certainty can lead to a state of total discredit in democratic institutions (judicial, legislative and executive), causing instability in the exercise of fundamental rights and guarantees.

Furthermore, the Court believes that legal certainty and self-determination of one's gender is not limited only to the name, but also encompasses the very elements of sex, gender and image of the

person. To this end, it is necessary to simplify the administrative processes of civil registrations and standardize them nationwide, which should be carried out based solely and exclusively on the free and informed consent of the interested party, without the need for medical and/or psychiatric reports, which can further increase prejudice and the situation of vulnerability of the LGBTQIA+ community.

In the same vein, there is no justification for requiring police certificates of good conduct from these individuals, under penalty of prejudice. In addition, privacy must be taken into account throughout the process and the name/gender prior to the request for change, which must be free of charge, must not be included..

For all the above reasons, the Court concluded that:

> States have the possibility of establishing and deciding on the most appropriate procedure, in accordance with the characteristics of each context and their national legislation, the procedures for name change, image adjustment and rectification of the reference to sex or gender, in registers and identity documents so that they are in accordance with self-perceived gender identity, regardless of their jurisdictional or materially administrative nature, and must comply with the requirements indicated in this opinion, namely: a) it must be focused on the integral adequacy of the self-perceived gender identity; b) it must be based solely on the free and informed consent of the applicant, without requiring requirements such as medical and/or psychological certifications or others that may result unreasonable or pathologizing; c) it must be confidential. In addition, changes, corrections or adjustments to records and identity documents must not mention the changes that resulted from the change to adapt to gender identity; d) they must be expeditious, and as far as possible, free of charge, and e) they must not require certification of surgical and/or hormonal operations. Given that the Court notes that the procedures of a materially administrative or notarial nature are the ones that best fit and adapt to these requirements, States can provide an administrative channel in parallel, which allows the person to choose (OC 24, 2017, paragraph 160).

The international protection of the relationships of same-sex couples and the families that arise from these relationships is based on the premise that there is no closed concept of "family" in the Pact of San José de Costa Rica, which does not protect only one model of family. In this sense, in Advisory Opinion 21, the Court discussed the possibility of recognizing same-sex marital ties as a "family", a fundamental and constantly evolving concept, namely:

> "[...] [The] definition of family should not be restricted to the traditional notion of a couple and their children, as other relatives, such as uncles, cousins and grandparents, can also be entitled to the right to family life, to list just a few possible members of the extended family, as long as they have close personal ties. What's more, in many families, the person(s) responsible for the attention, care and development of a child in a legal or habitual manner are not the biological parents. Furthermore, in the migratory context, "family ties" may have been formed between people who are not necessarily legally related, especially when, as far as children are concerned, they have not counted or lived with their parents in such processes. That is why the State has the obligation to determine in each case the constitution of the child's family nucleus [...] (OC 21, 2014, paragraph. 272).

The American Convention protects, by virtue of the right to private and family life (Article 11.2) as well as the right to family life (Article 17), the bond that can arise from a same-sex relationship. Furthermore, the Court has also determined that same-sex unions should be protected without any

discrimination, with the same respect accorded to heterosexual couples. This international protection stems from the right to equality and non-discrimination (Articles 1.1 and 24). Therefore, without prejudice to the above, the international obligation of states to guarantee the protection of these individuals transcends issues linked solely to property rights and extends to all the human rights internationally recognized by the Pact of San José de Costa Rica.

Therefore, states must guarantee access to all the legal frameworks that currently exist in domestic legislation, in order to ensure that all the rights of families formed by same-sex couples are protected, without discrimination and with respect to those formed by heterosexual couples. To this end, states may be obliged to modify existing legal frameworks through legislative, judicial or administrative measures, in order to extend them to same-sex couples.

The construction of these legal figures, as determined by the Inter-American Court of Human Rights, aimed at promoting the material equality of LGTQIA+ people, is not restricted to the Court's advisory jurisdiction. It is precisely for this reason that the duty to protect the rights of these people has gained greater prominence in the Inter-American system and demonstrates the fundamental relationship between democracy and human rights in the promotion of the vulnerable, going beyond the civil and administrative spheres and taking on the outlines of the definition and construction of a right to recognition as an effective instrument for safeguarding human rights. In light of the above, these relationships will be addressed through the Vicky Hernandez v. Honduras case, starting in section 1.3 of the article.

2.4 THE VICKY HERNANDEZ V. HONDURAS CASE AND ITS IMPORTANCE FOR THE PROTECTION OF HUMAN RIGHTS AND DEMOCRACY IN THE INTER-AMERICAN HUMAN RIGHTS SYSTEM

The Vicky Hernandez v. Honduras case demonstrates the relationship between democracy and human rights, and in this context, totalitarianism represents a rise in violations of the rights of minorities, in particular those of LGTQIA+ people. Celso Lafer, approaching totalitarianism and its relationship with human rights from a perspective of rupture, puts it this way.:

> Totalitarianism represents a proposal for the organization of society that aims for the total domination of individuals. In this sense, it embodies the process of breaking with tradition, because it is not an autocratic regime, which in dichotomous opposition to a democratic regime seeks to restrict or abolish public freedoms and individual guarantees. It is, in fact, a regime that is not to be confused with tyranny, despotism or the various forms of authoritarianism, because it strives to eliminate, in a historically unprecedented way, spontaneity itself - the most generic and elementary manifestation of human freedom. In order to achieve this goal, it generates the destructive isolation of the possibility of a public life - which requires the joint action of other people - and desolation, which prevents private life. (LAFER, 2001, p.117).

It is therefore important to put the political situation in Honduras into context in order to understand the Vicky Hernandez case. Honduras suffered a coup d'état in 2009 and how this process

intensified the cases of murders of transgender people (ARROYO, 2021) (as was the case with Vicky Hernandez) and, therefore, it is essential to understand the state of affairs related to the protection of sexual minorities in Latin America (including Brazil) and the protection of these people within the Inter-American System. To this end, in addition to the judgment of the case itself, it will be essential to analyze the dissenting vote of the judge and president of the Court, Elizabeth Odio Benito, and her position on the application of the Convention of Belém do Pará to the case.

The case under analysis is set against the backdrop of the 2009 Honduran coup d'état, in which President Manuel Zelaya was ousted by the Honduran army and succeeded by Roberto Micheletti, who imposed a curfew in the Latin American country. Despite Honduras being one of the countries with the highest number of convictions in the Inter-American Human Rights System, the country had been undergoing a democratic process since the enactment of the 1982 Constitution (PADILLA, ARAYA, 2019).

After 2009, human rights violations became state policy and sexual minorities, for example, began to be persecuted and victimized with deaths, violence and forced disappearances, acts perpetrated by state and parastatal agents, with the formation of militias that fought any opponents of the military coup. This is the understanding:

> Con el golpe de Estado la situación de los derechos humanos se deterioró a niveles alarmantes y su violación generalizada y sistemática se enmarcó dentro de una política de Estado ejecutada de forma pública y manifiesta, en donde todas las instituciones claves del sector justicia como el Ministerio Público, la Corte Suprema de Justicia y el Comisionado Nacional de los Derechos Humanos han defendido el rompimiento del orden constitucional y han avalado las violaciones a los derechos humanos cometidas por militares, policías y paramilitares (MEJÍA, 2010, p.5).

Honduras, like other Latin American countries, is historically marked by violence, inequality and disrespect for human rights, democracy and the protection of social minorities. Furthermore, in a context of suppression of citizens' fundamental guarantees, this situation is amplified to outrageous levels of disregard for human life.

This is what has happened:

> Este escenario de violación masiva y sistemática de los derechos humanos ratifica que el Estado hondureño incumple su obligación de combatir la impunidad por todos los medios legales disponibles, lo cual propicia la repetición crónica de la violencia “y la total indefensión de las víctimas y de sus familiares” . Bajo estos parámetros, la impunidad y su consecuente privación del derecho a la justicia se han convertido en un componente estructural de la cotidianidad nacional, pues las violaciones a los derechos humanos cometidas en el marco del golpe de Estado y a partir de la toma de posesión del nuevo gobierno surgido de unas elecciones ilegítimas, no están siendo investigadas, sancionadas ni reparadas en los términos exigidos por la legislación nacional y los estándares internacionales (MEJÍA, 2010, p.7).

This is the context of the Vicky Rodriguez v. Honduras case. The IA Court ruled that after the 2009 coup d'état, that Latin American country entered a scenario of massive violations of the human rights of social and sexual minorities, especially trans women, in a context of impunity and growing

violations of the social vulnerabilities related to this population. Vicky was murdered on 28/06/2009, the same day as the coup d'état, in which the new government decreed a state of exception and a curfew for the Honduran population.

The population did not watch this whole process in a watertight manner, and there were public demonstrations aimed at maintaining the democratic regime and the legitimately elected president. However, the repression was extremely brutal and violent, culminating in the death and imprisonment of many opponents. One of these deaths was that of trans woman Vicky Hernandez, an activist for the rights of LGTQIA+ people and a sex worker, yet another victim of the neglect and violence that plague Latin America and the poorest and most marginalized people in society.

As can be seen from the judgment of the IA Court, not even an autopsy was carried out on Vicky's body, since she was HIV-positive. Furthermore, the investigations were not diligent enough to elucidate the case in order to provide an answer and possible punishment, as can be seen from the condemnation of the State of Honduras itself:

> El 12 de marzo de 2015 la abogada de las familiares de Vicky Hernández presentó comunicación a la Fiscalía Especial de Delitos contra la Vida en el que señaló: "[q]ue el relacionado expediente se encuentra en el mismo estado en que se encontrara en el mes de octubre" y que no se habían integrado al expediente documentos importantes como: i) el dictamen de autopsia; ii) la nota de fecha 18 de octubre de 2013 enviada por Medicina Forense a la Fiscalía Especial de Delitos contra la Vida, informando que dicha autopsia se envió a la Fiscalía de Homicidios el 13 de julio de 2013, y iii) las solicitudes de incorporación al expediente de fechas 17 y 30 de octubre de 2013. En un oficio de la Subdirección General de la Fiscalía del Ministerio Público sobre las investigaciones de 28 de septiembre de 2020 se hizo mención a la diligencia que consistió en un auto de requerimiento de investigación de 22 de octubre de 2019 y que se encontraría "pendiente de remisión de diligencias investigativas asignad[as a la Dirección Policial de Investigaciones]" , aunque no se proporcionaron detalles sobre la naturaleza de las mismas. Se carece de información actualizada sobre el estado de la investigación (CIDH, 2021, p.19).

In the case analyzed, the Court found that the Honduran state violated the following rights: the victim's right to life and personal integrity, personal freedom, freedom of expression, personality rights, the right to a name, the right to equality and non-discrimination, among others. In addition, with regard to the family of Vicky Hernadez, the Honduran state violated the rights to judicial guarantees and judicial protection, as it did not provide the necessary support for a swift and effective resolution of the case.

With regard to the right to non-discrimination and equality before the law, the Court held that Article 24 of the Pact of San José unequivocally prohibits prejudiced or discriminatory attitudes against any individual, regardless of their race or sexual orientation, even through the use of state force. Therefore, in the face of the historical violence (as occurred after the 2009 coup) and marginalization of the LGTQIA+ community, gender and sexual orientation are elements covered and protected by the Pact of San José.

Moving on, the IA Court stated that the right to life was violated precisely because Vicky was a trans woman and was involved in social movements fighting for the human rights of LGBTQIA+ people. Therefore, for the Court, the new dictatorial government's institutional stance led to the construction of a policy aimed at exterminating people, especially trans women.

Therefore, the Inter-American Human Rights System (PIOVESAN, 2016) represents a true model for the construction of a transformative regional constitutionalism based on the understanding and vision of the human person as deserving and absolute holder of the most basic rights. As such, the Inter-American Commission and Court of Human Rights are contributing to the construction of citizenship from the perspective of the "right to have rights" (LAFER, 1988, p.154), with the emancipatory perspective of the legal system.

Thus, we analyze the partially dissenting vote of Judge Elizabeth Odio Benito (BENITO, 2021, p.1) who focused, in a minority view on the subject, on whether or not to apply the Convention of Belém do Pará to transsexual women. For Benito, Article 7 of the Convention cannot be applied to the Vicky Hernandez case, as it is not possible to equate gender identity (a social construct) and sex (a biological construct). Therefore, in his opinion, it is possible to understand that the Convention of Belém do Pará should only be applied to women who are biologically considered to be such.

Odio Benito recalls, advancing his position, that in Advisory Opinion 24 itself, the Court differentiated the concepts of sex and gender identity quite sharply and, furthermore, the dynamics of violence against women and other sexual minorities, such as trans people, are different and therefore deserve different treatment. This is an excerpt from the vote:

> Para concluir esta parte del análisis, reitero mi posición de que el sujeto central del feminismo (y, en este caso, de la violencia que se ejerce contra la mujer por el hecho de ser mujer) es la *mujer* y la específica opresión que esta sufre, su origen e impacto. Si confundimos la lucha feminista y sustituimos al sujeto del feminismo, si el sujeto del feminismo deja de ser la mujer biológica para ser una extraña y confusa variable de identidades subjetivas, debemos plantearnos y poner sobre la mesa el más que previsible impacto negativo que tendría sobre décadas de lucha y teoría feminista. Y no solo desaparecería el feminismo sino también la teoría de los derechos humanos, que también está basada no en sentimientos ni autopercepciones, sino en categorías objetivas y científicas. Así, cabría preguntarse: si el sexo, categoría material y científica, desaparece absorbido por la “identidad de género”, percepción subjetiva individual, ¿en qué se basaría la violencia de género? ¿Y a qué queda reducido el sexo femenino? ¿Cómo se documentarían las violaciones sexuales y demás crímenes de violencia sexual contra las mujeres? ¿Cómo se documentarían las violencias sufridas por personas trans si el cambio de sexo es algo confidencial que no puede documentarse? ¿Y las diferencias salariales? ¿Y las discriminaciones en el acceso a la educación en todos sus niveles, formales e informales? Las preguntas son muchísimas más. Pero estas pocas bastan para evidenciar el caos y el retroceso al que nos estamos enfrentando. (CIDH, 2021, paragraph 15).

However, the judge's understanding is not in line with a more global and comprehensive view of human rights protection, nor even with the transformative role of the Inter-American Court of Human Rights and the obligatory dialogue that decisions issued by this court have in domestic legal systems.

3 FINAL THOUGHTS

From the above, it is possible to see the relationship between Democracy and Human Rights, especially when related to the Inter-American Human Rights System and the protection of social minorities, such as the LGTQIA+ community. Based on this assumption, it is imperative that the Advisory Opinions of the Inter-American Court of Human Rights, in addition to binding national states, represent an important instrument for transforming reality.

In addition, the case of Vicky Hernandez v. Honduras, a paradigm within the Inter-American System, as the first contentious case of the Court that specifically addressed the rights of trans people, demonstrated how the Latin American context of protection for these minorities is still so flawed and challenging, with the state's own framework providing repressive instruments against social movements and the protection of vulnerable groups.

Finally, from a democratic and deliberative view of criminal law, it is credible to conclude that from an emancipatory view of human rights and with the possibility of international human rights treaties legitimately acting as incriminating criminal norms. Therefore, a first step towards recognizing LGTQIA+ people as subjects of rights will be taken, although the road to this end is still arduous and thorny.

Therefore, understanding human rights, and in particular the Inter-American system, as a legitimate system of social transformation and systematic evolution of rights and guarantees, is fundamental for the protection of vulnerable groups. It is clear, therefore, that weakening both the advisory and contentious jurisdiction of the Inter-American Court is tantamount to vilifying life. The Vicky Hernandez case is shocking because of the brutality and incivility of Latin countries, marked by coups and neoliberal governments. May Vicky's example serve as an encouragement for human rights in Latin America's shaky democracy.

This is what I hope will be the starting point for future generations. Always more democracy, more rights and more respect for the human body and human life, which are so fragile and at the same time so valuable for the maturing process of life in society. May minorities resist in order to survive. That's what I hope for, without any utopian pretensions.

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