



## **Preferred Name in the Brazilian Legal System: Creating an Institution to Combat Prejudice and Discrimination**

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**Abstract:** The purpose of this paper is to address the issue of gender prejudice and discrimination by examining the linguistic and legal aspects of the inclusion of the preferred name (*nome social*, in Brazilian Portuguese) in the Brazilian legal system. A preferred name refers to the name chosen by a transgender person to be used in place of their registered name. In this discussion, we analyze federal bills, legal decisions, and regulations that have, from 2006 to 2022, contributed to the incorporation of the preferred name into various types of texts in Brazil. We also consider the results of studies that have examined the use of preferred names in the Brazilian media. The data analysis demonstrates that, despite the history of the establishment of this institution being marked by various instances of discrimination and violence, both in legal documents and in the media, the norms related to preferred names have simultaneously represented a significant stride for the public authorities and society to pay more attention to recognizing the rights of transgender individuals. In the case of legal decisions, there has also been a shift in the resolution of conflicts, favoring the principles of free name choice, self-identity determination, and human dignity.

**Keywords:** discrimination; gender prejudice. transgender rights; preferred name; Brazilian legal system.

**Summary:** 1. Introduction; 2. The insertion of the preferred name in the Brazilian legal system; 3. The reference to transgender individuals and to preferred names in the news; 4. Discussion: principles in adopting or rejecting preferred names; 5. Final remarks.

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## 1. Introduction

The name registration is widespread among written culture and the civil name is fundamental for any administrative or legal act. It constitutes the anthroponym most used in formal situations. The choice of the civil name is made, most of the time, by parents or guardians. In countries with a civil law system, the right to have a name, as well as its registration, is provided for by law. However, there are several situations in which one may want to change their name throughout their lives. According to Varennes & Kuzborska<sup>1</sup>, it is now increasingly accepted that individuals are entitled to have their names recognized and used, including names in a language that may not be the official language of the nation in which they live. One of the situations of changing names is observed with transgender people, who can change the civil name or adopt the preferred name (*nome social*, in Brazilian Portuguese)<sup>2</sup>.

Paula and Benevides<sup>3</sup> analyze responses from transgender people who answered, in April 2022, a questionnaire about civil registration rectification. Of 1,658 responses from transgender people, 631 (38.4) had rectified their civil registration and 1,011 (62%) had not. Among the former, the majority (75%) had done it administratively. Among those, 94% rectified both name and gender, i.e., a small group rectified only the name or only the gender. In the case of the latter, 91% use the preferred name, which, according to the authors, "demonstrates that the policy of respect and use of the preferred name remains current and extremely important for the guarantee of inclusion, maintenance and confrontation of transphobic violence in the interpersonal treatment of trans people".<sup>4</sup>

Regarding linguistic aspects, new studies have shown that Brazilian preferred names present innovative graphic properties and tend to have a smaller extension than other anthroponyms. In certain cases, it presents marks of identity and traits related to the social context of the bearer.<sup>5</sup> However, the social acceptance of this name has been controversial in Brazilian society. In the press, for example, the use of the preferred name exhibits marks of prejudice and discrimination.<sup>6</sup>

The aim of this work is to analyse signs of prejudice and discrimination through linguistic and legal aspects in the inclusion process of the preferred name in the Brazilian legal system. The analysis is based on the interface between linguistic studies on proper names with law studies.<sup>7</sup> The text is organized as follows: firstly, we analyse the incorporation of the preferred name within the Brazilian legal system, taking into account some federal legal instruments and court decisions; secondly, we comment some strategies for referring to transgender people in news; thirdly, a comprehensive discussion on these topics is presented, followed by the inclusion of our final remarks.

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<sup>1</sup> F. VARENNES, E. KUZBORSKA, *Human rights and a person's name: legal trends and challenges*, in *Human Rights Quarterly*, 37/4, 2015, pp. 977–1023, <http://www.jstor.org/stable/24519122>.

<sup>2</sup> As an anthroponomic category and according to Federal Decree No. 8,727/2016, the *preferred name* (or *chosen name*) corresponds to the name by which the transgender person identifies him- or herself and is socially recognized. See E. T. R. AMARAL, *Onomastics and Law Interface: Contributions to the Studies of Brazilian Anthroponomy*, in *Domínios da Linguagem*, 15/2, 2020, pp. 446–473, <https://seer.ufu.br/index.php/dominiosdelinguagem/article/view/56675/30332> and E. T. R. AMARAL, M. S. SEIDE, *Personal names: an Introduction to Brazilian Anthroponymy*, Araraquara, 2022, <https://www.letraria.net/wp-content/uploads/2022/04/Personal-Names-an-introduction-to-Brazilian-anthroponymy-Letraria.pdf>.

<sup>3</sup> A. W. M. PAULA, B. BENEVIDES, *Resultados e análises*, in *ANTRA - Associação Nacional de Travestis e Transexuais. Diagnóstico sobre o acesso à retificação de nome e gênero de travestis e demais pessoas trans no Brasil*, Brasília, 2022, pp. 45-81, <https://antrabrazil.files.wordpress.com/2022/11/diagnostico-retificacao-antra2022.pdf>.

<sup>4</sup> A. W. M. PAULA, B. BENEVIDES, *op. cit.*, p. 60.

<sup>5</sup> E. T. R. AMARAL, C. B. TIMPANI, *O nome social de candidatos a cargos eletivos no Brasil*, in *Acta Scientiarum. Language and Culture*, 45/1, 2023, e66511. <https://doi.org/10.4025/actascilangcult.v45i1.66511> and J. M. A. SOUZA, N. C. PRADO, *Formação e estilização ortográfica de nomes sociais de pessoas transgêneros: questões de identidade linguística e de gênero*, in *Domínios de Linguagem*, 15/3, 2021, pp. 637-677, <https://doi.org/10.14393/DL47-v15n3a2021-2>.

<sup>6</sup> E. T. R. AMARAL, I. OLIVEIRA, *O nome social como uma categoria antroponímica para a garantia do princípio da dignidade da pessoa humana*, in *Caligrama: Revista de Estudos Românicos*, 24/3, 2019, pp. 25–46. <http://dx.doi.org/10.17851/2238-3824.24.3.25-46>.

<sup>7</sup> T. AINIALA, *Names in society*, in C. HOUGH (ed.), *The Oxford Handbook of Names and Naming*, Oxford, 2016, pp. 371–381, E. T. R. AMARAL, *op. cit.*, and A. TEUTSCH, *Names and Law*, in C. HOUGH (ed.), *The Oxford Handbook of Names and Naming*, Oxford, 2016, pp. 554-571.

## 2. The insertion of the preferred name in the Brazilian legal system

The process of recognition of the right to a preferred name for transgender people has come a long way in Brazil, often posing challenges for those seeking recognition from both the State and society. To understand how this process has occurred in the country, it is important to observe how the publication of standards over the past decades has developed.

First, it is worth remembering that neither the 1988 Constitution of the Republic nor the 2022 Civil Code mention the preferred name.<sup>8</sup> However, since the first years of the 21st century, several bills have been presented, especially in the House of Representatives, that aimed to guarantee transgender people the right to use their preferred name. In opposition to these propositions, several legislative reactions arose to bar this right – already in 2005, a bill proposed by deputy Elimar Máximo Damasceno (Prona/SP), PL 5,872/2005, intended to prohibit the change of name of transsexual individuals. In a justification based much more on moral and religious concepts, the parliamentarian defended: "The transsexual, by removing the sexual characters with which nature has endowed him, throws his revolt at God. We cannot condone these abominations. The law must urgently prevent the Judiciary branch from allowing these follies [name changes]".<sup>9</sup>

In 2006, in the House of Representatives, the justification of PL 6,655/2006, authored by Congressman Luciano Zica (PT/SP), was based on the need for recognition of the preferred name of transsexual people, although still, as Bento<sup>10</sup> recalls, from a pathologizing perspective.<sup>11</sup> The bill 2,976/2008, authored by Representative Cida Diogo (PT/RJ), is set to make it possible, for the first time, to include the term *nome social* ('preferred name') in legal proposals. The deputy's bill intended to create the possibility for people with a transvestite gender orientation, male or female, to use, next to their official name, a preferred name. Since 2008 until the year 2022, at least 15 bills have started to be processed in this Legislative House that explicitly recognize the existence of the preferred name and seek, most of the time, to expand the rights of transgender people<sup>12</sup>. Table 1 shows the data from these projects.

Bill (PL) number and year	Author (Party/State)	Synopsis of the decision. Status as of May 13, 2023.
Bill 2,976/2008	Cida Diogo (PT/RJ)	Adds Article 58-A to the text of Law No. 6,015, of December 31, 1973, which provides for public registries and other provisions, creating the possibility for people who have a male or female transvestite gender orientation to use a preferred name next to their official name and first name. Attached to bill 5,872/2005.
Bill 5,002/2013	Jean Wyllys (PSOL/RJ)	Provides the right to gender identity and changes Article 58 of Law No. 6,015 of December 31, 1973. Filed.
Bill 6,000/2016	André Amaral (PMDB/PB)	It defines general rules and objectives for the National High School Exam (ENEM), establishes the rights of its participants, and makes other provisions. Filed.
Bill 8,174/2017	André Amaral (PMDB/PB)	Adds a sole paragraph to Article 1 of Law No. 13,444, of May 11, 2017. Allows the use of the preferred name in identity documents. Filed.

<sup>8</sup> It is also important to mention that in Brazil, unlike countries such as Spain with the recent Law No. 4/2023, there is no specific federal legislation that protects the rights of LGBT+ individuals.

<sup>9</sup> E. M. DAMASCENO, *Bill No. 5,872, 9 September 2005*, p. 3, [https://www.camara.leg.br/proposicoesWeb/prop\\_mostrarintegra?codteor=338727&filename=Tramitacao-PL%205872/2005](https://www.camara.leg.br/proposicoesWeb/prop_mostrarintegra?codteor=338727&filename=Tramitacao-PL%205872/2005).

<sup>10</sup> B. BENTO, *Nome social para pessoas trans: cidadania precária e gambiarra legal*, in *Contemporânea – Revista de Sociologia da UFSCar*, 4/1, 2014, pp. 165–182.

<sup>11</sup> This is also how the author characterizes the Bill of Supplementary Law 658/2011, by former senator Marta Suplicy, presented in the Senate. See also C. M. BAHIA, M. V. L. CANCELIER, *Nome social: direito da personalidade de um grupo vulnerável ou arremedo de cidadania?* in *Revista Húmus*, 7/19, 2017, p. 102–123.

<sup>12</sup> In the Senate, the issue did not motivate many propositions. Besides the aforementioned bill 658/2011, it is worth mentioning the bill 2,649/2023, by Senator Alessandro Vieira (PSDB/SE), which provides for the right to use the preferred name in the public and private health services network.

Bill 8,614/2017	Flavinho (PSB/SP)	Prohibits the insertion of the preferred name in official documents. Amends Law No. 7,116 of 1983. Attached to bill 8,174/2017.
Bill 2,653/2019	David Miranda (PSOL/RJ)	Provides for the protection of people in situations of violence based on sexual orientation, gender identity, gender expression, or biological or sexual characteristics. Awaiting Temporary Committee Creation by the Board.
Bill 144/2021	Alexandre Padilha (PT/SP)	Provides for the reservation of job openings or internships for transsexual women, transvestites, and transsexual men in private companies, and makes other provisions. Joined to bill 5,593/2020.
Bill 2,345/2021	Natália Bonavides (PT/RN)	Creates the National Policy of Employment and Income for the Trans Population - TransCitizenship, aimed at promoting the citizenship of transvestites and transsexuals in situations of social vulnerability. Attached to Bill 144/2021.
Bill of Supplementary Law 111/2021	Jhonatan de Jesus (REPUBLIC/RR)	Establishes the Electoral Code. Withdrawn by Author.
Bill of Supplementary Law 112/2021	Soraya Santos (PL/RJ), Jhonatan de Jesus (REPUBLIC/RR), Paulo Teixeira (PT/SP) and others	Establishes the Electoral Code. Awaiting examination by the Federal Senate.
Bill 3,213/2021	Erika Kokay - (PT/DF), Vivi Reis (PSOL/PA), David Miranda (PSOL/RJ)	Provides for the right to self-determination of gender identity and gender expression and protection of the sexual characteristics of each person and makes other provisions. Attached to Bill 4,241/2012.
Bill 3,227/2021	Executive Branch	Amends Law No. 12,965 of April 23, 2014, and Law No. 9,610 of February 19, 1998, to provide for the use of social media. Awaiting order from the President of the Chamber of Deputies.
Bill 3,311/2021	Natália Bonavides (PT/RN)	Amends Law No. 9,265, of February 12, 1996, and Law No. 6,015, of December 31, 1973, to guarantee the right to free rectification and registration of the civil name and self-perceived gender of transvestites, transsexuals, transgenders, and non-binary people. Attached to Bill 3,667/2020.
Bill 4,346/2021	Vivi Reis (PSOL/PA)	Establishes the National Guidelines for the Promotion and Defense of the Human Rights of Public Security Professionals. Filed.
Bill 1,777/2022	Vivi Reis (PSOL/PA)	Amends Decree-Law No. 3,689, of October 3, 1941 (Code of Criminal Procedure) to institute protection measures for victims of sexual violence. Attached to 5117/2020.

Table 1. Bills and Bills of Supplementary Law from the House of Representatives whose original text acknowledges the preferred name as an element in legal proposals (chronological order).<sup>13</sup>

Although most of the bills have sought to guarantee the possibility of using the preferred name, there are contrary initiatives. For instance, bill 8,614/2017 seeks to prohibit the insertion of preferred names in official documents, on the grounds that it could "cause legal wrangling and endless confusion".<sup>14</sup> With the contention of ensuring legal security, the author creates a hypothetical situation in which one could change the name on the registry to a preferred name in order to defraud a purchase and a sales agreement. Nevertheless, from our point of view, the congressman's argument seems to fall short of acknowledging the fact that there are different

<sup>13</sup> CHAMBER OF DEPUTIES, *Propostas legislativas*, 2023, <https://www.camara.leg.br/busca-portal/proposicoes/pesquisa-simplificada>.

<sup>14</sup> FLAVINHO, *Bill No. 8,614, 29 September 2017*, <https://www.camara.leg.br/proposicoesWeb/fichadetramitacao?idProposicao=2152055>.

legal and administrative measures to prevent such fraud. Furthermore, it may be unfair to deny a right that should be granted to transgender individuals because of fraud that could be prevented through other means.

In any case, despite the myriads of bills on the issue, it's worth noting that there is currently no federal legislation addressing preferred names<sup>15</sup>. On the other hand, there have been several initiatives in the Executive Branch in this regard that are intended to fill this legislative gap. During the first decade of the 21st century, the federal government's public policies, which were oriented toward human rights protection, aimed to reduce inequalities in the rights of the LGBT+ population, among other goals. To this end, agendas such as civil unions, the recognition of homoparental families, the reduction of violence, as well as the guarantee of sexual and reproductive rights, among other situations of rights inequality, have become components of the governmental political agendas.

In 2004, the "Brazil without Homophobia - Program to Combat Violence and Discrimination against LGBTs and to Promote Homosexual Citizenship" was established by the Special Secretariat for Human Rights (SEDH) of the Presidency of the Republic.<sup>16</sup> In 2006, an Ordinance from the Ministry of Health approved the *Charter of Rights of Health Users*, which consolidates the rights and duties of citizenship in health care throughout the country. Although the text ensured that citizens could be identified by the name they preferred to be called, regardless of their civil registry name, the term *nome social* ('preferred name') was not yet introduced.<sup>17</sup> Three years later, this normative instrument was revoked by Ordinance No. 1,820 of August 13, 2009, which, for the first time, cited the preferred name as a means of individual identification: "There should be in every document of the user a field for registering the preferred name, regardless of the civil registration, and the use of the preferred name must be ensured, and individuals should not be identified by number, their legal name, disease codes or any other disrespectful or prejudiced methods".<sup>18</sup> For many transgender individuals, the card became their first official document, displaying only their preferred name, while their registered name remained within internal systems.<sup>19</sup> For us, this action can also be seen as a possibility to reduce discrimination against transgender individuals.

In 2010, Ordinance No. 233, issued by the Ministry of Planning, Budget, and Management (MPOG) on May 18, ensured that public servants within the Federal Public Administration could use their preferred names. According to the normative text, in the case of functional identification for internal use by the agency (badge), the preferred name should be written on the obverse side and the civil name on the back of the functional identification. The following year, Ordinance No. 2,836/2011, issued by the Ministry of Health (MS), established that the National LGBT Integral Health Policy had as one of its objectives to guarantee the use of the preferred name of transvestites and transsexuals.<sup>20</sup> In the same year, 2011, Ordinance No. 1,612/2011, issued by the Ministry of Education (MEC), ensured transgender and transvestite individuals the right to include their preferred name in acts and procedures conducted within the executive body. In the case of functional identification for internal use by the agency (badge), this ordinance established that the preferred name should be written on the front side, and the civil name on the back of the functional identification.

It can be argued that public policies regarding the preferred name gained more prominence starting in 2016. This shift was prompted by Decree No. 8,727/2016, issued by President Dilma Rousseff, which recognizes the gender identity of transvestites and transsexuals and mandates the use of the preferred name within the direct federal public administration, as well as in autarchic and foundational entities.<sup>21</sup> In the process of including the preferred name in federal administrative acts, in 2018, Decree 9,278/2018 was issued. It regulates the issuance

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<sup>15</sup> At the municipal level, some noteworthy examples include Law No. 12,691/2017 from the municipality of Uberlândia (see UBERLÂNDIA, *Law No. 12,691, 17 May 2017*, <http://leismunicipa.is/qephv>).

<sup>16</sup> NATIONAL COUNCIL TO COMBAT DISCRIMINATION, *Brasil Sem Homofobia: Programa de combate à violência e à discriminação contra GLTB e promoção da cidadania homossexual*, Brasília, 2004, [https://bvsmms.saude.gov.br/bvs/publicacoes/brasil\\_sem\\_homofobia.pdf](https://bvsmms.saude.gov.br/bvs/publicacoes/brasil_sem_homofobia.pdf).

<sup>17</sup> BRAZIL, Ministry of Health, *Ordinance No. 675, 30 March 2006*, [http://bvsmms.saude.gov.br/bvs/saudelegis/gm/2006/prt0675\\_30\\_03\\_2006.html](http://bvsmms.saude.gov.br/bvs/saudelegis/gm/2006/prt0675_30_03_2006.html).

<sup>18</sup> BRAZIL, Ministry of Health, *Ordinance No. 1,820, de 13 August 2009*, [https://bvsmms.saude.gov.br/bvs/saudelegis/gm/2009/prt1820\\_13\\_08\\_2009.html](https://bvsmms.saude.gov.br/bvs/saudelegis/gm/2009/prt1820_13_08_2009.html).

<sup>19</sup> B. BENEVIDES, I. VIRGÍNIA, V. DANDARA, *Introdução*, in ANTRA - Associação Nacional de Travestis e Transexuais. *Diagnóstico sobre o acesso à retificação de nome e gênero de travestis e demais pessoas trans no Brasil*, Brasília, 2022, pp. 6–13, <https://antrabrazil.files.wordpress.com/2022/11/diagnostico-retificacao-antra2022.pdf>.

<sup>20</sup> BRAZIL, Ministry of Health, *Ordinance No. 2,836, 1<sup>st</sup> December 2011*, [https://bvsmms.saude.gov.br/bvs/saudelegis/gm/2011/prt2836\\_01\\_12\\_2011.html](https://bvsmms.saude.gov.br/bvs/saudelegis/gm/2011/prt2836_01_12_2011.html).

<sup>21</sup> BRAZIL, Presidency of the Republic, *Decree No. 8,727, 28 April 2016*, [https://www.planalto.gov.br/ccivil\\_03/\\_ato2015-2018/2016/decreto/d8727.htm](https://www.planalto.gov.br/ccivil_03/_ato2015-2018/2016/decreto/d8727.htm).



of the Identity Card and ensures the inclusion of the preferred name in the document of transgender individuals upon request, without any need for supporting documentation.<sup>22, 23</sup> Although this Decree was revoked four years later by Decree No. 10,977/2022, this last one continued to provide for the inclusion of the preferred name in the identification document.<sup>24</sup> We will return to this issue later.

Table 2 presents a list of national norms that have contributed to the recognition and guarantee of the use of the preferred name. However, it is important to note that even before the national norms, there had already been norms from various entities or bodies of the Public Administration that recognized the right to use the preferred name.<sup>25</sup> In the state of Pará, Ordinance No. 16/2008, issued by the Secretary of State for Education, established that, effective from January 2, 2009, all public school units should include the preferred names of transvestites and transgender individuals when registering students. Also in 2008, in the city of Belo Horizonte, a resolution from the Municipal Council of Education already published the guidelines for including the preferred name of transvestites and transsexuals in school records.<sup>26</sup> In the following year, 2009, the Federal University of Amapá issued an ordinance allowing the inclusion of the preferred name of transvestites and transsexuals in the academic records of the institution.<sup>27</sup> Even though the university ordinance was founded with the goal of inclusivity for this group, it required that the preferred name be recorded in parentheses followed by the civil name on internal documents. Such a norm, in our point of view, could be more unfavorable to the inclusion process, a topic that will be taken up later. Over the following years, other federal universities issued internal rules on preferred name<sup>28</sup>.

Year	Issuer	Normative text	Topics / Content
2006	Ministry of Health	Ordinance No. 675, of March 30, 2006.	Charter on the Rights of Health Care Users.
2009	Ministry of Health	Ordinance No. 1,820, of August 13, 2009.	Provides on the rights and duties of health care users.
2010	Ministry of Planning, Development and Management (now Ministry of Planning and Budget)	Ordinance No. 233, of May 18, 2010.	Ensures that public servants within the direct federal, autonomous, and foundational public administration have the right to use their preferred name.
2011	Ministry of Education	Ordinance No. 1,612, of November 18, 2011.	Ensures transsexual and transvestite individuals the right to choose their preferred name in acts and procedures promoted by the Ministry of Education.

<sup>22</sup> BRAZIL, Presidency of the Republic, *Decree No. 9,278, 5 February 2018*, [http://www.planalto.gov.br/ccivil\\_03/\\_ato2015-2018/2018/decreto/D9278.htm](http://www.planalto.gov.br/ccivil_03/_ato2015-2018/2018/decreto/D9278.htm).

<sup>23</sup> When it comes to the Judiciary Branch, it is worth mentioning Resolution No. 270/2018 of the National Council of Justice, which provides for the use of the preferred name by people using judicial services, as well as by members, servants, interns, and outsourced workers of Brazilian courts (see NATIONAL COUNCIL OF JUSTICE, *Resolution No. 270, 11 December 2018*, [https://atos.cnj.jus.br/files/resolucao\\_270\\_11122018\\_12122018112523.pdf](https://atos.cnj.jus.br/files/resolucao_270_11122018_12122018112523.pdf)). Additionally, the TSE enables the inclusion of the preferred name in the electoral register (See SUPERIOR ELECTORAL COURT, *Resolution No. 23,562, 22 March 2018*, <https://www.tse.jus.br/legislacao/compilada/res/2018/resolucao-no-23-562-de-22-de-marco-de-2018>).

<sup>24</sup> BRAZIL, *Law No. 14,382, 27 June 2022*, [http://www.planalto.gov.br/ccivil\\_03/\\_Ato2019-2022/2022/Lei/L14382.htm#art11](http://www.planalto.gov.br/ccivil_03/_Ato2019-2022/2022/Lei/L14382.htm#art11).

<sup>25</sup> J. A. SILVA JÚNIOR, *Direitos à meia luz: regulamentação do uso nome social de estudantes travestis e transexuais nas instituições escolares*, in *Revista da FAEEBA – Educação e Contemporaneidade*, 25/45, 2016, pp. 173-189, <http://revistas.uneb.br/index.php/faeeba/article/view/2293>.

<sup>26</sup> BELO HORIZONTE, *Resolution CME/BH No. 002/2008, 18 December 2008*, <http://portal6.pbh.gov.br/dom/iniciaEdicao.do?method=DetalheArtigo&pk=1000854>.

<sup>27</sup> FEDERAL UNIVERSITY OF AMAPÁ, *Resolution No. 13, 19 October 2009*, <https://www2.unifap.br/consu/files/2011/07/Resolu%c3%a7%c3%a3o-013-09-Travestis-e-Transexuais.pdf>.

<sup>28</sup> For a review of reports on preferred name inclusion in academic records, see C. A. BUTKOVSKY JUNIOR, *Identidade de gênero e reconhecimento: o registro do nome social no meio acadêmico (um estudo de caso na UFES)*, Master's thesis, Federal University of Espírito Santo, 2017, [https://sucupira.capes.gov.br/sucupira/public/consultas/coleta/trabalhoConclusao/viewTrabalhoConclusao.jsf?popup=true&id\\_trabalho=5074017](https://sucupira.capes.gov.br/sucupira/public/consultas/coleta/trabalhoConclusao/viewTrabalhoConclusao.jsf?popup=true&id_trabalho=5074017).

2011	Ministry of Health	Ordinance No. 2,836, of December 1, 2011.	It institutes, within the scope of the Brazilian National Health System (SUS), the National Policy for Integral Health of Lesbians, Gays, Bisexuals, Transvestites and Transsexuals (LGBT National Policy for Integral Health).
2014	Secretariat for Human Rights of the Presidency of the Republic / (currently Ministry of Human Rights and Citizenship)	Resolution No. 11, of December 18, 2014.	Establishes parameters for the inclusion of the items "sexual orientation", "gender identity", and "preferred name" in occurrence reports issued by police authorities in Brazil.
2015	Secretariat for Human Rights of the Presidency of the Republic (currently Ministry of Human Rights and Citizenship)	Resolution No. 12 of January 16, 2015.	Sets forth parameters to guarantee access and permanence conditions for transvestites and transsexuals – and all those who do not have their gender identity recognized in different social spaces – in the educational systems and institutions, formulating guidelines for the institutional recognition of gender identity and its operationalization.
2016	Presidency of the Republic	Decree No. 8,727 of April 28, 2016.	Provides for the use of the preferred name and the recognition of the gender identity of transvestites and transsexuals within the scope of the direct federal public administration.
2018	Ministry of Education	Ordinance No. 33, of January 17, 2018 and Resolution CNE/CP No. 1/2018.	Ratifies the Opinion CNE/CP No. 14/2017, of the Full Council ( <i>Conselho Pleno</i> , CP) of the National Education Council ( <i>Conselho Nacional de Educação</i> , CNE), approved in the Public Session of September 12, 2017, which, together with the Resolution Project attached to it, defines the use of the preferred name of transvestites and transsexuals in the school records of Basic Education in the Country, for students over 18 years of age.
2022	Presidency of the Republic	Decree No. 10,977 of February 23, 2022 <sup>29</sup> .	Sets forth the procedures and requirements for the expedition of the Identity Card, which will include, upon request, the preferred name.

Table 2. National norms relevant to the recognition and guarantee of the use of the preferred name (chronological order)

As shown in Table 2, despite the absence of a law guaranteeing transgender people the use of a name in accordance with their gender identity, the State began issuing several norms from different bodies, which gradually gave greater visibility to the subject. Such norms originate within the Ministry of Health, with the aim of promoting equality and reducing violence, and they were subsequently extended to Education, Public Administration, and other sectors.

Unarguably, the evolution of the rules on the preferred name has not been peaceful, and opposition has become more pronounced in recent years. It's worth noting that a significant number of proposals aimed at restricting the implementation of policies for recognizing and adopting the preferred name have gained attention. Following the issuance of Resolutions No. 11/2014 and No. 12/2015, there were a significant number of legislative decree projects seeking to halt the effects of the application of either one, the other, or both, namely: Bill of Legislative Decree PDC 16/2015 (Pr. Marco Feliciano - PSC/SP); PDC 17/2015 (Pr. Marco

<sup>29</sup> It is noteworthy that Resolution No. 11/2023, published in the Official Gazette of the Union on 04/10/23, establishes a Technical Work Group to present a Minute of alteration to Decree No. 10,977, of February 23, 2022, regarding the disposition of the "gender" and "preferred name" fields in the National Identity Card (see BRAZIL, Presidency of the Republic, *Resolution No. 11, 6 April 2023*, <https://pesquisa.in.gov.br/imprensa/jsp/visualiza/index.jsp?data=10/04/2023&jornal=515&pagina=4&totalArquivos=28>). Until the completion of this paper, the result of the report of the work of this group had not been released.

Feliciano - PSC/SP); PDC 18/2015 (Jair Bolsonaro - PP/RJ); PDC 26/2015 (Ezequiel Teixeira - SD/RJ); PDC 30/2015 (Eros Biondini - PTB/MG, Fausto Pinato - PRB/SP, Josué Bengtson - PTB/PA and others); PDC 61/2015 (Silas Câmara - PSD/AM); PDC 90/2015 (Alan Rick - PRB/AC). In 2016, the Bill of Legislative Decree PDC 395/2016 was introduced by several authors (João Campos - PRB/GO, Evandro Gussi - PV/SP, Paulo Freire Costa - PR/SP and others). It seeks to halt Decree No. 8,727/2016. In 2018, PDC 898/2018 was introduced (Professor Victório Galli - PSC/MT), which aims to halt MEC Ordinance No. 33/2018.

In the justifications of several legislative decree projects, one can observe a rationale based on the argument that the Executive Branch lacks the authority to issue a regulation concerning names. In the justification of Legislative Decree Bill PDC 16/2015, which aims to annul Resolution 12/2015, Representative Marco Feliciano (PSC/SP), for instance, classifies the transgender rights guarantee policy as "absurd". He also asserts that proposed changes should be addressed through civil legislation rather than by the Executive. In our interpretation, his argument does not hold up, as the published norms do not modify the public records law. The discourse presented by these Representatives is more of a veiled way of revealing discrimination against the transgender population.

Another example contrary to the presidential norm can be found in Bill 8,614/2017, according to which "If someone wishes to change their name [...], they should approach the Judiciary with reasons they find plausible and within the legal framework in force, along with the necessary evidence, and their request will undoubtedly be granted".<sup>30</sup> We can observe that the author, besides distorting the purpose of the Decree, seems to go against any progress related to names.

As far as jurisprudence on the subject is concerned, it is not possible here to present an exhaustive survey. However, some court decisions provide insights into how the preferred name institution (and its conception) has been integrated into judicial rulings<sup>31</sup>. An initial example is a special appeal filed by a transsexual with the Superior Court of Justice (*Superior Tribunal de Justiça*, STJ) against a decision of the São Paulo Court of Justice. This decision had upheld the appeal filed by the Public Prosecutor's Office of the State of São Paulo (*Ministério Público do Estado de São Paulo* – MPSP) to overturn a judgment that had approved the request of a transsexual to change her name from *Clauderson* to *Patrícia* and to alter her gender designation from male to female. In this case, the plaintiff had undergone transgenitalization surgery, and her request was elevated to a higher court due to the arguments presented by the MPSP. The arguments claimed that the intended change did not fall within the exceptions for rectification provided for in the public records law and that, consequently, the rule of name unchangeability should prevail. The STJ rapporteur, Nancy Andrichi, supported by other ministers in a 2009 decision, accepted the initial request based on the principle of human dignity. The magistrate granted the applicant's claim and ordered the change in their birth certificate.<sup>32</sup>

The cited judgment served as a parameter for later judgments of the same Court, including one that judged a request for name change without the plaintiff having had the surgery. In this case, the decision of the Court of origin (Court of Justice of São Paulo) acknowledged the plaintiff's right to change her first name but did not fully recognize it. The court only permitted the addition of a female first name, creating a compound name that the plaintiff did not identify with.<sup>33</sup> In the initial decision, the judge had only authorized the addition of the female first name "C." before the male first name "N.", and the plaintiff should be called C. N. da S., instead of de N. da S. Therefore, this led to a peculiar situation in which a court decision imposed a name on a competent adult, rather than allowing them to choose their preferred name. In the STJ's decision, the court acknowledged that not all transsexual individuals desire surgery, and some may not wish to undergo surgical intervention. The final decision, delivered in 2020, favored the plaintiff's request.<sup>34</sup> Earlier, however, the Supreme Federal Court (*Supremo Tribunal Federal* - STF) had already ruled on the Direct Action of

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<sup>30</sup> FLAVINHO, Bill No. 8,614, 29 September 2017, <https://www.camara.leg.br/proposicoesWeb/fichadetramitacao?idProposicao=2152055>.

<sup>31</sup> See also Cidade and Bicalho, who analyze requests for civil registration rectification (name and sex/gender declaration) in TJ-RJ cases (M. L. R. CIDADE, P. P. G. BICALHO, *A racionalidade médico-jurídica dos processos de alteração do registro civil de pessoas trans no estado do Rio de Janeiro*, in *Revista de Direito*, 9/2, 2017, pp. 161–203, <https://periodicos.ufv.br/revistadir/article/view/1920>).

<sup>32</sup> SUPERIOR COURT OF JUSTICE, *Special Appeal No. 1.008.398 - SP (2007/0273360-5)*, 15 October 2009, [https://processo.stj.jus.br/SCON/GetInteiroTeorDoAcordao?num\\_registro=200702733605&dt\\_publicacao=18/11/2009](https://processo.stj.jus.br/SCON/GetInteiroTeorDoAcordao?num_registro=200702733605&dt_publicacao=18/11/2009).

<sup>33</sup> It is worth noting that, unlike the previous case, the reference to transsexual is made using grammatical forms in the feminine.

<sup>34</sup> SUPERIOR COURT OF JUSTICE, *Special Appeal No. 1.860.649 - SP (2018/0335830-4)*, 12 May 2020, [https://processo.stj.jus.br/SCON/GetInteiroTeorDoAcordao?num\\_registro=201803358304&dt\\_publicacao=18/05/2020](https://processo.stj.jus.br/SCON/GetInteiroTeorDoAcordao?num_registro=201803358304&dt_publicacao=18/05/2020).



Unconstitutionality.<sup>35</sup> In this lawsuit, the Court granted the action to provide an interpretation in accordance with the Constitution and the Pact of San Jose da Costa Rica to Article 58 of Law No. 6,015/1973. This interpretation recognized the right of transgender individuals, who desire such changes, to have their name and sex directly substituted in the civil register, without the requirement of transgenitalization surgery or hormone treatment, or any pathologizing treatments. The lawsuit was initiated in 2009 and, as a result, had been in progress for nine years within the country's highest court.

The examples above illustrate cases that have reached the country's superior courts to address the name change and the consolidation of the preferred name. Due to legislation not keeping pace with social change, the decisions of higher courts have made it much more challenging for transgender individuals who wish to adopt their preferred name. It is worth noting that some individuals who successfully rectified their name on their birth certificate later encountered difficulties in updating their documents, including facing inquiries from public institutions regarding the certificate's authenticity.<sup>36</sup> Paula and Benevides mention cases of transphobia by notary public employees. Some examples of transgender individuals' accounts are as follows:

(1) "When I entered the rectification request, the employee who attended me treated me as male several times and there was a moment when we went to a room so that I could state with certainty that I wanted to rectify not being possible later a new change".<sup>37</sup>

(2) "There was a somewhat awkward moment, but it seemed like a usual part of the process, when I was interviewed by the Notary with questions about how sure I was about the decision I was making, whether I would like to have any surgery, whether I would hormone myself and so on".<sup>38</sup>

(3) "At the registrar's office in São Paulo, even though I presented my case and the way I would like to be called, they continued using my dead name throughout the process of reviewing the documents...".<sup>39</sup>

(4) "they asked me for thousands of things without need, such as medical report, social network prints, bank accounts where I use my preferred name, hearing with 3 witnesses to prove that I am trans and even though I said I was wrong, I sent everything because I just wanted the process to be fast".<sup>40</sup>

In 2022, the modification in the public records law facilitated name changes. Following the amendments introduced by Law No. 14,382/2022, anyone can now, for the first time, make a name change in an extrajudicial manner.<sup>41</sup> However, this change does not prevent the adoption of a preferred name when an individual chooses not to rectify their civil register.

### 3. The reference to transgender individuals and to preferred names in the news

Over the past two decades, the press has played a crucial role in promoting the recognition of the preferred name as a new right. However, respect for the dignity of transgender individuals and their adoption of new names did not immediately align with the evolving norms. In recent years, studies have demonstrated how the press can disseminate and sometimes reinforce prejudice and discrimination.

From a lexical studies perspective, Amaral and Oliveira<sup>42</sup> clarified that, in their survey of the *Folha de*

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<sup>35</sup> SUPREME FEDERAL COURT, *Direct Action of Unconstitutionality No. 4,275, 1st March 2018*, <https://portal.stf.jus.br/processos/downloadPeca.asp?id=15339649246&ext=.pdf>.

<sup>36</sup> See the cases mentioned on M. L. R. CIDADE, *Nomes (Im)próprios: Registro civil, norma cisgênera e racionalidades do Sistema Judiciário*, Master's thesis, Federal University of de Janeiro, [https://sucupira.capes.gov.br/sucupira/public/consultas/coleta/trabalhoConclusao/viewTrabalhoConclusao.jsf?popup=true&id\\_trabalho=3072295](https://sucupira.capes.gov.br/sucupira/public/consultas/coleta/trabalhoConclusao/viewTrabalhoConclusao.jsf?popup=true&id_trabalho=3072295).

<sup>37</sup> A. W. M. PAULA, B. BENEVIDES, *op. cit.*, p. 79.

<sup>38</sup> A. W. M. PAULA, B. BENEVIDES, *op. cit.*, p. 80.

<sup>39</sup> A. W. M. PAULA, B. BENEVIDES, *op. cit.*, p. 81.

<sup>40</sup> A. W. M. PAULA, B. BENEVIDES, *op. cit.*, p. 81.

<sup>41</sup> BRAZIL, *Law No. 14,382, 27 June 2022*, [http://www.planalto.gov.br/ccivil\\_03/ Ato2019-2022/2022/Lei/L14382.htm#art11](http://www.planalto.gov.br/ccivil_03/ Ato2019-2022/2022/Lei/L14382.htm#art11).

<sup>42</sup> E. T. R. AMARAL, I. OLIVEIRA, *O nome social como uma categoria antroponímica para a garantia do princípio da dignidade da pessoa humana / Preferred Name as an Anthroponymic Category for Guaranteeing the Principle of Human Dignity*, in *Caligrama: Revista de Estudos Românicos*, 24/3, 2019, pp. 25–46. <http://dx.doi.org/10.17851/2238-3824.24.3.25-46>.

*S. Paulo* database, one of the main newspapers with national circulation, the term *nome social* ('preferred name') began to be used in the year 2009, which corresponds with its inclusion in legislative proposals at that time, as discussed in the previous section. Based on this information as well as on the regulations on the subject, the authors conducted an analysis of 196 cases of reference to transgender people's names cited in news stories published on the Internet from 2008 to 2017. In their findings, they highlight several strategies for including the preferred name of transgender individuals in journalistic texts. The most frequent constructions included (*best*) *known as*, *being called*, *identified as*, *used the name of*, among others, as in (5). The authors found occurrences of the term '*nome social*' in approximately 5% of the cases, as exemplified in (6).

(5) murder of transvestite P. J. I. P.<sup>43</sup>, 27, *known as* P.<sup>44</sup>

(6) The act started around 6:30pm at Largo do Rosário and the group walked to the Metropolitan Cathedral where tributes were paid to J. G. B., who *used the preferred name of* G. B.<sup>45</sup>

It is worth noting that in (5) and (6), as well as in several cases cited by the authors, both civil name and the preferred name were presented together, indicating a lack of awareness about the need to omit the registered name and prioritize the name chosen by individuals. After all, we can question, what would be the importance or relevance to the reader in knowing the dead name of the transgender person?

In the authors' data, there are occurrences that consider the preferred name as a *nickname* (sometimes with a negative connotation) or even explicitly use pejorative forms, as seen in (7), where the term *alias* is employed. Furthermore, in nearly 38% of the occurrences analyzed by Amaral and Oliveira, lexical or grammatical items in the masculine form were used when referring to female transgender individuals, as illustrated in (8). This is a common occurrence in the experiences of transgender individuals, who frequently endure the inappropriate use of grammatical elements that do not align with the gender they identify with. It undoubtedly reflects a significant lack of respect for their self-perceived gender identity.

(7) The victim, identified as C. S. S., 30 years old, alias "C.", was a resident of the same street where he was killed<sup>46</sup>

(8) In Bauru, hairdresser J. F. S., alias "S.", was executed with five shots on January 8<sup>47</sup>

In recent times, the ways of reference to transgender people in the press have evolved, signifying greater respect for their dignity. This change has also been influenced by the recent General Law on Personal Data Protection (Law No. 13,709/2018). In contemporary news, media outlets have been using the preferred name without including the civil register name and making use of grammatical elements in the gender identified by the transgender person. Regardless of the authorship of each journalistic text, which is worth researching in another study, examples from two different outlets are as follows. In the first case, these are news reports by Folha Vitória about the murder of the transvestite Laura Vermont. In 2015, the newspaper reported the crime by referring to the victim with her registered name, alongside her preferred name, as shown in (9). Recently, when publicizing the conviction of the guilty, the same outlet mentions only the name of the victim (10).

(9) **D. L. A.**, a transvestite **known as Laura Vermont**, 18, died after being beaten in the east side of São Paulo, in the early hours of last Saturday (20).<sup>48</sup>

(10) Three of the five men accused for the death of **transvestite Laura Vermont**, 18, in 2015 were

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<sup>43</sup> Names were not abbreviated in the original.

<sup>44</sup> E. T. R. AMARAL, I. OLIVEIRA, *op. cit.*, p. 37.

<sup>45</sup> IBIDEM, p. 37

<sup>46</sup> IBIDEM, p. 37.

<sup>47</sup> E. T. R. AMARAL, I. OLIVEIRA, *op. cit.*, p. 38. In the original text, the article *o* ("o cabelereiro") and the suffix *-o* ("foi executado") indicate male gender.

<sup>48</sup> FOLHA VITÓRIA, *Travesti é espancada, bate cabeça em ônibus ao fugir e não resiste aos ferimentos*, 22 June 2015, <https://www.folhavitoria.com.br/policia/noticia/06/2015/travesti-e-espancada-bate-cabeca-em-onibus-ao-fugir-e-nao-resiste-aos-ferimentos>.

convicted of light bodily injury on Friday, 12, after a decision by the 1st Jury Court of the Capital City of São Paulo.<sup>49</sup>

A similar example is the case of another transvestite who was also murdered in 2015 in Goiás. At the time, the news published by the G1 Goiás portal included the victim's registered name and male article (*um travesti*), as can be seen in (11). In 2023, when reporting the arrest of one of the convicted individuals, the same vehicle started using feminine grammatical forms and no longer mentions the victim's legal name, as shown in example (12).

(11) The Civil Police of Goiás presented on Tuesday (15) two suspects of killing **a transvestite**, in Goiânia. Lucas Ferreira, 29, and Dionata Guimarães, 24, confessed to the crime. According to investigations, the victim, **A. J. C. J.**, 27, was stoned to death after a disagreement with one of the suspects.<sup>50</sup>

(12) This Thursday (6), in Marabá, Pará, one of those convicted of the murder of **a transvestite**, which occurred in July 2015, was arrested. (...) At the time, according to the delegate in charge of the case, Valdemir Pereira da Silva, after having sex, there was a disagreement between the pair and the victim. In the aftermath, the convicts stoned **the transvestite** to death.<sup>51</sup>

Applying the theoretical principles of Discourse Analysis, some scholars have also examined how the norms regarding the preferred name have been conveyed in the press.<sup>52</sup> Overall, the studies reveal prejudice against individuals that request the use of their preferred names in public spaces. Both Cunha and Guilherme analyze Monteiro's text,<sup>53</sup> which presents the conservative and discriminatory position of Congressman João Campos in *online* press. Campos regarded the preferred name as an equivalent to a nickname and argued that straight people should also have the right to a preferred name. At the time, the discussion surrounding the presentation of Bill of Legislative Decree PDC 395/2016 was ongoing. In the rapporteur's vote, issued by Congressman Lincoln Portela (PR-MG), Decree No. 8,727/2016 would be exorbitant legislative competence since it is up to the Union to legislate on civil law rules and on public records. Once again, as we can see, the argument is fallacious, since the Decree is limited to regulating the use of preferred names within the federal public administration.

Cunha also highlights the use of terms like *family* and *God* by parliamentarians to justify prejudice and discrimination. In many cases, the arguments of opponents to the norms regarding preferred names are reiterated, reaffirming that LGBT+ individuals are privileged and might be occupying spaces intended for women or with the intention of violence against them. Benevides<sup>54</sup> rightly reminds us that it is unlikely (and even fanciful) to believe that a cis-hetero man would go through a whole transition process, or even a name change, in order to rape women.

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<sup>49</sup> FOLHA VITÓRIA, *Assassinos da travesti Laura Vermont são condenados por lesão leve e pena é extinta*, 13 May 2023, <https://www.folhavitoria.com.br/geral/noticia/05/2023/assassinos-da-travesti-laura-vermont-sao-condenadospor-lesao-leve-e-pena-e-extinta>.

<sup>50</sup> M. VELASCO, *Caminhoneiro e colega são presos suspeitos de matar travesti em Goiás*, in *G1 GO*, 15 September 2015, <https://g1.globo.com/goias/noticia/2015/09/caminhoneiro-e-colega-sao-presos-suspeitos-de-matar-travesti-em-goias.html>.

<sup>51</sup> M. DAL BOSCO, 7 Abril 2023, *Condenado por torturar e matar travesti a pedradas em Goiânia é preso no Pará*, in *G1 Goiás*, <https://g1.globo.com/go/noticia/2023/04/07/condenado-por-torturar-e-matar-travesti-a-pedradas-em-goiania-e-preso-no-para.ghtml>.

<sup>52</sup> M. L. F. GUILHERME, *Reflexões sobre a identidade de pessoas trans em notícias online: Uma análise do conteúdo temático*, in *Revista X*, 14/4, 2019, pp. 107–119, <https://revistas.ufpr.br/revistax/article/view/66062> and S. R. P. CUNHA, *Nome social e a (des)construção identitária do sujeito*, Master's thesis, Federal University of Tocantins, 2021.

<sup>53</sup> M. MONTEIRO, *Deputado goiano compara nome social a "apelido" e pede direito igual para hêteros*, in *Jornal Opção*, 20 July 2017, <https://www.jornalopcao.com.br/ultimas-noticias/deputado-goiano-compara-nome-social-apelido-e-pede-direito-igual-para-heteros-100358/>.

<sup>54</sup> B. G. BENEVIDES, *A autodeclaração de gênero de mulheres trans expõe mulheres cis a predadores sexuais?*, in *Medium*, 28 February 2021, <https://brunabenevidex.medium.com/a-autodeclara%C3%A7%C3%A3o-de-g%C3%AAnero-de-mulheres-trans-exp%C3%B5e-mulheres-cis-a-predadores-sexuais-11b27e1ff85e>.

#### 4. Discussion: principles in adopting or rejecting preferred names

At the beginning of this paper, the inertia of the Legislative Branch nationwide to recognize the right of transgender individuals to use their preferred name was discussed. As a result, many older court decisions that considered name change and gender marker requests denied the plaintiffs' petitions. Over the past few years, despite numerous obstacles and persistent discourses of prejudice and discrimination, the principles that underpin legislative proposals and decisions have been evolving, not without revealing an (apparent) *conflict* of principles.

On the one hand, the principle of legal security and the principle of legality were defended, based on which court decisions refused to grant requests for registration changes, even in individuals who had already undergone redesignation surgery.<sup>55</sup> On the other hand, the principles of human dignity and personal identity, along with the principles of free name choice and gender self-determination, were advocated. However, in many cases of opposition, this collision of principles, as defined in Alexy's<sup>56</sup> classic sense, is only apparent. It aims to circumvent the necessity of favoring a minority group, thus denying them a right that can contribute to their greater dignity. Considering contemporary interpretations that value the latest principles, favorable to transgender people, it might seem difficult to understand how it could have taken so long for the changes to happen. However, this gradual change is nothing new in Brazilian society.<sup>57</sup>

Bento<sup>58</sup>, in analyzing the proliferation of norms related to social naming in microspheres such as schools, universities and public offices, argues that the country has repeated a history of "precarious citizenship". In this history, the voting/approval of laws guaranteeing achievements for the marginalized, including economic, sexual and gender dissidents, has been achieved in baby steps, piece by piece. According to this argument, the author considers the implementation of the preferred name as a legal "quick fix". In any case, this process has created a new institution within the Brazilian legal system that has become one of the key issues for transgender individuals in their fight for their rights.

This trickle-down evolution becomes evident when examining the changes in national identification documents. Since the transgender community has consistently advocated for legal name recognition, and this was not accomplished through federal law, various units of the federation began issuing documents that included the preferred name, as exemplified in the DF model shown in Figure 1.<sup>59</sup>



Fig. 1. Model of identity card with preferred name from the Federal District

In a federal government decree published in 2022 during the Bolsonaro administration, the model in Figure

<sup>55</sup> M. L. R. CIDADE., *op. cit.*

<sup>56</sup> R. ALEXY, *Teoría de los derechos fundamentales*, Madrid, 1993.

<sup>57</sup> It is worth noting that Brazilian lexicography has not yet been fully updated. Even though the term *nome social* ('preferred name'), with the meaning adopted in this work, has been used in normative documents since at least 2008 and in the press since at least 2009, not all contemporary dictionaries include it in their entries. While MDBLP already includes an entry for it, DAD, on the other hand, does not, and neither does DHLP.

<sup>58</sup> B. BENTO, *Nome social para pessoas trans: cidadania precária e gambiarra legal*, in *Contemporânea – Revista de Sociologia da UFSCar*, 4/1, 2014, pp. 165–182.

<sup>59</sup> M. MARQUES, P. ALVES, *Travestis e transexuais podem usar nome social em carteira de identidade no DF; saiba como funciona*, *G1 DF*, 12 September 2019, <https://g1.globo.com/df/distrito-federal/noticia/2019/09/12/travestis-e-transexuais-podem-usar-nome-social-em-carteira-de-identidade-no-df-saiba-como-funciona.ghtml>.



2 was presented, which would expose the preferred name after the civil registration name.<sup>60</sup>



Fig. 2. Model established by Decree 10,977/2022

After demands from transgender collectives, the current government team, led by President Lula, proposed the model in Figure 3, which includes only one name. In this context, the distinction of two names in a single document would be eliminated, avoiding a source of embarrassment for transgender individuals.<sup>61</sup>



Fig. 3. New model proposed by Ministry of Management and Innovation in Public Services

The alteration in the format of identification documents issuance is a clear reflection of how prejudice and discrimination against the transgender population permeate in administrative decisions, adding to what has been previously discussed in terms of legislative proposals and legal decisions. Faced with the need to comply with Decree No. 8,727/2016 issued by President Dilma and not repealed by the National Congress, despite various parliamentary attempts, as seen above, the government under then-President Jair Bolsonaro decided to introduce a document that would include the preferred name after the civil registration name, as well as the gender marker. Promptly, there were protests from organizations advocating LGBT+ rights. In a public civil action, they claimed that the proposed model could potentially expose the transgender population to increased risk of violence and human rights violations. The Lula government team recognized that the exposure of the civil register name before the preferred name would, in effect, constitute a form to discrimination against the transgender population, which is already vulnerable to physical violence and discrimination. Consequently, they proposed a normative change. However, the last model has not yet been implemented, leaving the issue unresolved and keeping the debate open, including in legal actions related to the subject.

As we can see, the clash between political forces, many of them with arguments based on prejudice, discrimination, and hate speeches, ends up hindering the achievement of basic rights by vulnerable groups. This conflict is often veiled behind the defense of principles that offer limited contributions to the reduction of

<sup>60</sup> BRAZIL, Law No. 14.382, 27 June 2022, [http://www.planalto.gov.br/ccivil\\_03/\\_Ato2019-2022/2022/Lei/L14382.htm#art11](http://www.planalto.gov.br/ccivil_03/_Ato2019-2022/2022/Lei/L14382.htm#art11).

<sup>61</sup> MINISTRY OF MANAGEMENT AND INNOVATION IN PUBLIC SERVICES, *Novos modelos da CIN*, 18 May 2023. <https://www.gov.br/gestao/pt-br/imagem/novos-modelos-da-cin>.



violence and inequality.

## 5. Final remarks

Nearly two decades after the inception of the preferred name in micro regulations, it must be acknowledged that the adopted procedures, while not ideal, represented a step forward in making both the public authorities and society more aware of the importance of recognizing the rights of transgender individuals. This conclusion is reinforced by the assertion of Paula and Benevides, who argue advocating for a policy regarding preferred names that meets the needs of transgender individuals should be a commitment of the entire society. According to the same authors, efforts should be "made so that the preferred name is implemented and properly used in all actions and public policies for these people".<sup>62</sup>

The results of the discussion above provide evidence of increased acceptance of preferred names in recent years. The development of this institution can be linked to social and legal changes that have taken place from the second half of the 20th century onwards, as well as the broader expansion of human rights in recent decades, including the right to choose one's own name, as discussed by Varennes and Kuzborska.<sup>63</sup> In fact, the data presented above provides evidence that the historical progression of recognizing preferred names within the Brazilian Legislative, Judicial, and Executive Branches is intricately tied to an important battle for the expansion of rights. Despite the opposition, the establishment of the preferred name institution in the country holds profound significance that has no parallel in other nations.<sup>64</sup>

Undoubtedly, it would have been more ideal and dignified to recognize the rights of transgender people as soon as they were requested. However, with a National Congress permeated by projects that represent advances and, at the same time, setbacks in human rights, it has not been possible to make parliamentarians act in a more agile way to recognize the rights of vulnerable groups. As Benevides states, "whenever any right is thought of, discussed, or won for trans people, a perspective of fraud or risk to others is placed in the defense of denying that right".<sup>65</sup> Under the shadow of flimsy arguments, prejudices are hidden that end up discouraging the fight against physical violence against transgender people. Such prejudices in themselves constitute a process that is also violent and dehumanizing against this group.

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<sup>62</sup> A. W. M. PAULA, B. BENEVIDES, *op. cit.*, p. 60.

<sup>63</sup> F. VARENNES, E. KUZBORSKA, *Human rights and a person's name: legal trends and challenges*, in *Human Rights Quarterly*, 37/4, 2015, pp. 977–1023, <http://www.jstor.org/stable/24519122>.

<sup>64</sup> We are unaware of comparative studies on the preferred name across countries. For the situation in Germany and Spain, see, for example, LIND, M. *How to do gender with names. The name changes of trans individuals as performative speech acts*, in *Journal of Language and Sexuality*, 2/1, 2023, pp. 1–22. <https://doi.org/10.1075/jls.21002.lin> and HIDALGO GARCÍA, S. *Transexualidad: Sexo, Género e Identidad Jurídica. LGTBIQ+ y la "Ley Trans" de 2023*, Pamplona, 2023, respectively.

<sup>65</sup> B. G. BENEVIDES, *op. cit.*

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