

## Can't you see the street from the cabinet's window?

### *Criminalization of travesties and the discourses of the Justice Tribunal in São Paulo*

Victor Siqueira Serra

| Brazil |

translated by Nicole Froio

**F**our years ago, I wrote the essay *"People addicted to crime": criminalization of travestis and the discourses of the Justice Tribunal in São Paulo*. In this essay, I analysed 100 criminal files involving travestis, describing how each stage of the system of criminal justice (police, public hearings, the judiciary) reinforces stereotypes and stigmas, and how, in this system, they will use all resources to codemn these people, who are considered too different, too challenging. Ill-adjusted. Deviant. Dangerous.

Along the processes of the criminal justice system, from the criminal incidents and police investigations to the "end point" of the process (State Courts of Justice, the Supreme Tribunal of Justice or the Federal Supreme Court, depending on the case), there are protocols and procedures. There are moments where we could reverse errors and injustices. Institutions, however, do not usually question each other. In the "war on crime" - which is actually a war against territories and poor populations, most of them Black, since large companies and businessmen who commit economic and environmental crimes do not know imprisonment, torture and gun shots - the system understands that any questioning or denunciation of one institution against another means weakening its side. Losing the war.

The biased writing of police reports, the lack of rigorous investigation, the double standards, the two instances of collecting and evaluating witness statements, trials with absurd qualifiers and sentence increases, all of this points to how the armed wing of the State does not know (or doesn't want to) deal with the issues of poverty and marginalization that knock every day on the doors of police stations and forums. I say “armed wing” even though prosecutors and judges rarely use weapons. Because in the world we live in, there are words that authorize shootings.

Some issues I discussed in that text became even more evident in the four years that I continued working with criminalized people, inside and outside prisons. The first of these are cases in which travestis are convicted of theft, when they have a disagreement with their clients. In this country, the one that kills the most LGBT+ people on the planet and the one that most consumes pornography with trans people, which excludes travestis from the formal job market and criminalizes informal markets, almost 90% of travestis carry out some type of sex work, according to ANTRA (National Association of Trans People and Travestis).

In this context of suspicion and violence, travestis negotiate the payment of their services with clients who sometimes underpay or refuse to pay. Away from the cameras and the courts, what counts in these places is the law of the streets. On the streets, when there is conflict over payment for sex work, it is their word against that of the clients. The value of what is said depends on who says it, as well as who has the power to decide.

The second issue is with cases involving drug trafficking. As with other poor and marginalized populations, travestis are constantly criminalized for possessing small amounts of drugs, even without committing the action of selling drugs or committing violence, regardless of whether they carry them for their own use or that of their clients. Nor does it matter what their living and survival conditions are, inside and outside prison.

Among the 100 cases I analyzed, many of those involving trafficking took place inside prisons: in prison, many travestis survive by washing clothes and cleaning the cells, sex

work and the work of storing drugs. When the drugs are seized, they are the ones accused and convicted, it doesn't matter if there was an investigation or not, if there are witnesses or not, if it makes sense for someone who barely has food to have large amounts of drugs. For the system, what matters is someone being condemned, to set an example, to fulfill productivity goals. To quench the thirst for revenge.

Thirdly, there is the issue that travestis do not appear as victims of crimes such as theft, robbery, aggression, discrimination, slander, libel — only of homicide. In these cases, when they have already been killed (or almost), the judiciary condemns the defendants to high penalties, even claiming the qualifier of a clumsy motive, since that “it is unacceptable in the 21st century for someone to die just for being who they are”. I describe this as “only in death can life be recognized”, because the same judiciary that arrests these travesti killers, speaking out about the prejudice and violence they have to face, also arrests hundreds of travestis – incarcerates them in the same prisons.

While they are alive, their chosen names are disrespected, despite the fact that several laws and decrees require their use by public institutions; medical care and hormone treatment are denied to them, in prison and outside; they are excluded from the job market, disrespected in schools and other public spaces; they are pushed to the margins of society, and then criminalized for being marginalized. While they are alive, their citizenship and dignity are crushed. They are preyed upon and killed, en masse. Only in death are they recognized as human. Dangerous and criminal when alive, martyrs when dead.

The most important thing isn't to understand if they really steal from their customers or if they sell drugs. Guilty prey exists, as well as innocent prey. Victims of violence, threats and extortion who cannot resort to the justice system, knowing that they will not be welcomed, but discredited, challenged and blamed. The most important thing is to understand that no matter how many defense witnesses, security cameras or material evidence there are, the system, when it wants to convict someone, it convicts them. Because they are poor and they are sex workers, violent and dangerous people, the criminal justice system condemns many travestis at any cost. It delegitimizes their narratives and legitimizes questionable institutional practices. Travestis, because they are travestis, are not treated as people who

can have committed the crimes they are accused of, they are treated as people who must have committed the crimes they were accused of. An expectation turned into reality. A prophecy that is fulfilled by force: the force of a threat, a gunshot, or a pen.

Prosecutors and judges live very different lives from those living on the periphery who usually occupy the case files and the defendants' benches. Because of the salaries they receive, they are among the richest 10% of the Brazilian population. The bodyguards and armored cars they are used to are a distant reality from shacks without basic sanitation. And yet, the judiciary claims to judge based on a supposed common experience, it qualifies discourses and situations based on what it considers credible. However, these judges do not understand the conflicts, intentions and needs of those who live this other life - what seems real or plausible in the air conditioning of cars and mansions changes a lot, when you have the sun and nothing else on your head. From the top of the São Paulo Court of Justice building, in the sanitized and elite center of the largest metropolis in Latin America, only those who dare to look can actually see. From the office window, you can't see the street.

In the last four years, some travesti friends managed to finish their studies. Some got jobs. Others have relapsed into drug abuse and are trying to recover and reorganize themselves. Two were arrested, one of them wrongfully - and she is now free. Two died.

And today, as it was 4 years ago, it is still urgent to break down office windows, to let in the smell, sound and chaos of the street. Make them see inequalities, injustices and despair. Make them recognize these lives as legitimate lives before they die. Make them not confuse revenge with justice.

Make them see the beginnings and the redemptions. And if they don't open their windows and their eyes, let's go in anyway. To break the cycle of violence and criminalization. Stop the prophecy. Build alternatives. So that the street and the prison are not the only destination for so many travestis. So that there is no exploitation or prisons. Because hunger and pain don't wait. Neither does hope.

