Love without Veil or Garland: A Critical Reading of the Judgment on Same-Sex Civil Unions in Brazil

Eder van Pelt*
Faculty of Law, Federal Fluminense University

Abstract

This article offers a critical reading of the 2011 Brazilian Supreme Federal Court decision recognizing same-sex civil unions as family units. While celebrated as a landmark for sexual minorities' rights, the judgment operates through an affective grammar that disciplines as much as it includes. Drawing on critical perspectives on law and sexuality, I argue that the decision mobilizes a heteronormative framework of conjugality, in which the very term "homoaffective subject" functions to produce a domesticated and respectable figure, while silencing more radical forms of kinship, desire, and care. The article advances the notion of "affective coloniality" as a key to understanding the normative costs of recognition.

Keywords: same-sex civil union; Brazilian constitutional law; legal recognition; homoaffective; affective colonization.

[A] INTRODUCTION

The historic decision of the Brazilian Supreme Federal Court ([*Supremo Tribunal Federal*] STF) in May 2011, recognizing same-sex civil unions [*uniões estáveis homoafetivas*] as family entities, was celebrated as a landmark in the process of legal inclusion of LGBTI+ persons. At first sight, it appears to be a forceful affirmation of equality, dignity, and the protection of sexual minorities within the constitutional framework. Yet, a closer examination of the terms of recognition reveals that the gesture does not end with the mere granting of rights. On the contrary, it mobilizes affects, regulates forms of life, and establishes an emotionally normative model of what can be deemed legitimate. The *homoaffective* subject—a

* The author gratefully acknowledges the financial support provided by the Rio de Janeiro Research Foundation (FAPERJ), through the "*Jovem Cientista do Nosso Estado Program*", for the development of this research.

term that will be further explained in this article—when incorporated into the field of law, is simultaneously disciplined by it.

This article proposes a critical reading of the affective grammar of the STF decision, questioning the type of subject it imagines, accepts, and rewards, as well as the way it mobilizes a certain "affective colonization" of LGBTI+ persons.[1] In other words, this is an analysis that does not limit itself to the legal-formal content of the opinions but rather investigates how affect—especially conjugal love—is invoked as a condition for the recognition of sexual citizenship. I aim to highlight how the notion of "homoaffectivity" emerged in this particular legal and linguistic context. Rather than claiming a radical autochthony, my analysis seeks to show how this term acquired juridical and cultural force in Brazil through the logic of "affective colonization", while resonating with—but not identical to—logics found in other jurisdictions.

The central question guiding this investigation is how the STF, in recognizing the same-sex civil union, reaffirms certain forms of kinship while marginalizing others.[2] I ask how the decision legally articulates the exclusion of non-monogamous and dissident forms of affect, through discursive categories tied to an extension and contemporary reiteration of what Monique Wittig (1992) called the "straight mind". I move between questions of what type of subject the judgment recognizes and at what cost. More precisely, I inquire into how the legal discourse of affectivity—although presented as inclusive—operates as a mechanism of normalization, channelling dissident lives into acceptable forms of intimacy and affectivity. Drawing on queer theoretical frameworks and on my own critical approach to issues of sexual rights (Van Pelt 2025), I argue that the judgment, far from dismantling the "heteronormative logic" (Butler 1990),[3] rearticulates it through the heteronormative language of love, affect, dignity, and mutual commitment.

The text is organized in three sections. In the first, I examine the decision as a judicial performance marked by an affective grammar of purification: affect appears as the foundation of the *homoaffective civil*

[1] Similar critiques of assimilation and respectability, leading to concepts akin to "affective colonization", have been advanced elsewhere (eg Duggan 2003; Edelman 2004; Dean 2009; Adler 2018).

[2] Cf Rubin, "Thinking Sex" (1984), on the "charmed circle" that centres respectable sexualities and marginalizes practices at the outer edges.

[3] Judith Butler describes the "heterosexual matrix" as the principal normative mechanism of Western gender systems, where three dimensions are articulated: the classification of sex (male/female), the binary of gender identity and expression (man/woman), and heterosexuality as the normative orientation (Butler 1990).

union, but also as a disciplinary filter of what can be recognized. In the second, I employ the concept of "affective coloniality" to reflect on the normalizing effects of the ruling and on how it reorganizes the field of intimacy, erasing other insurgent forms of kinship, desire, affect, and care. Finally, in the third part, I sketch—through a critical reading of the key aspects of the decision—a dissonant legal imagination, one that refuses the terms of recognition as they were imposed and claims the right to exist without veil or garland—that is, without adornments that conceal difference, alterity, and sexual-affective disobedience.

Although the decision under analysis was delivered more than a decade ago, its symbolic and normative effects remain central to the field of Brazilian sexual politics—particularly in light of the recent setbacks caused by neo-conservative policies and the fragility of rights won exclusively through judicial rather than legislative channels.[4]

[B] THE CONTEXT OF THE DECISION ON HOMOAFFECTIVE CIVIL UNIONS BEFORE THE STF

Brazil adopts a model of democratic constitutionalism marked by the normative force of the 1988 Constitution, conceived as an instrument of social transformation after two decades of civil–military dictatorship. The STF, as guardian of the Constitution, plays a central role in the interpretation of fundamental rights, including through decisions with general binding effect. This configuration enables the Court to assume a prominent role in affirming new rights, often through interpretative means and without legislative mediation. It is in this context that the category of *homoaffectivity* [*homoafetividade*] emerges—a legal and political neologism coined to designate relationships between persons of the same sex in affective and conjugal terms, seeking both institutional recognition and legal protection in a scenario of deliberate legislative omission.

With a National Congress[5] characterized by a more conservative stance regarding sexual rights, LGBTI+ movements have developed strategies of

[4] On a personal note, I believe that since 2011 I have matured some of the interpretations I had previously developed—in publications, lectures, and teaching—and they appear in a more elaborated form in this article, especially through the instrumental use of the concept of "affective coloniality" to problematize the juridical-interpretative particularity of the Brazilian case.

[5] The Brazilian National Congress is composed of two legislative chambers: the Chamber of Deputies and the Federal Senate. In the case under analysis, it holds legislative competence to enact civil laws with validity throughout the entire national territory.

judicialization for their political agendas.[6] This occurs because, within the Brazilian political–institutional configuration, the STF has stood out for assuming a counter-majoritarian role, refining the modern liberal tradition and the system of protection of citizens' fundamental rights, especially those of social minorities (Coacci 2015; Cardinali 2017).

In 2011, the STF, through mechanisms of abstract constitutional review, jointly adjudicated the actions that equated, for all purposes, same-sex civil unions with heterosexual civil unions (Brazil, STF, ADPF 132, 2011; Brazil, STF, ADI 4277, 2011).[7] The definition of a civil union in Brazil is tied to the existence of a long-term, public, and continuous relationship between two persons living as if married. The civil union is recognized by the Federal Constitution of Brazil (Brazilian Constitution 1988, Article 226(3)) and regulated by the Civil Code (Brazilian Civil Code 2002, Article1.723).

ADPF 132 pointed to possible violations of the rights to equality, liberty, private autonomy, the principle of legal certainty, and the dignity of the human person. The action requested an "interpretation in conformity with the Constitution" of Article 1.723 of the Brazilian Civil Code, declaring that judicial decisions denying the legal equivalence of homoaffective civil unions to other civil unions would violate the fundamental rights enshrined in the Constitution. This interpretative method applies to infra-constitutional legislation and aims to align the normative text with the constitutional meaning most appropriate to the time of interpretation, without declaring its nullity.

ADI 4277, in turn, had as its main objective that the STF recognize homoaffective civil unions as family entities, provided that the same requirements established for the recognition of civil unions between a man and a woman were met, with the corresponding application of the same rights and duties.

Thus, in adjudicating the two actions jointly, the STF carried out an interpretation in conformity with the Constitution of Article 1.723 of the Civil Code, establishing that "the sex of persons, absent an express or implicit constitutional provision to the contrary, cannot serve as a factor of legal 'disequality'" (Brazil STF 2011: 2-10). In one of the rare

[6] For systematic data on the institutionalization of LGBTQIA+ rights in Brazil, see the ILGA World SOGIESC Database (ILGA World 2025), the *Observatória Nacional de Direitos Humanos LGBTI+ Diadorim* (2025), and the recent analytical report by the Brazilian National Council of Justice (CNJ 2025).

[7] These are specific actions within the Brazilian constitutional review process, designed to examine violations of the fundamental precepts that sustain the legal order.

occasions of a consensual judgment, with few argumentative dissents before the STF, all 10 justices participating in the case ruled in favour of the actions, even though the reasoning in their opinions displayed certain divergences.

The Article of the Civil Code expressly provides that a civil union is between a man and a woman. The STF's decision did not amend the text of this Article; it merely carried out an interpretation in conformity with the Constitution, which set aside the sexual discrimination that would otherwise exist in the provision by limiting the institution of the civil union exclusively to conjugal relationships between a man and a woman. Thus, as a result of the decision, registry offices throughout the country were subsequently obliged to register same-sex civil unions, thereby ensuring legal stability in a highly controversial matter in Brazilian society, one that had been marked by conflicting judicial decisions—some recognizing and others denying civil unions for same-sex couples.[8]

As a consequence of the STF's decision, the civil union became a legal institution that would also extend to same-sex couples, now recognized as family entities under the law. The term *homoaffectivity*, used and popularized in the reasoning of the decision, was developed by the jurist Maria Berenice Dias (2011a; 2011b) to present the issue in a form more acceptable to the general public. Affectivity thus served as the rhetorical instrument to affirm the "humanity of homosexual couples",[9] distancing them from the stigmas and moral panic that surround them.

At the same time, it is important to recognize that the notion of *homoaffectivity*, as constructed in Brazilian legal doctrine, has specific contours that distinguish it from other categories employed in different jurisdictions. It is a legal–linguistic concept marked by the valorization of principles such as dignity, love, fidelity, and stability, but articulated in a singular manner within the Brazilian legal field. Although there are parallels with foundations mobilized in other legal systems for the recognition of same-sex civil unions, the category of *homoaffectivity*

[8] Equal marriage has also been available in Brazil since 2013, following resolutions of the National Council of Justice (CNJ) requiring civil registries to celebrate marriages between same-sex partners.

[9] In English-speaking contexts, the term "homosexuals" is historically loaded with juridical and medical pathologization, often linked to criminalization or psychiatric discourses. For this reason, terms such as gay, lesbian, queer, or same-sex couples are generally preferred today, as they are more closely associated with identity, respect, and self-determination. In the Brazilian context, however, the term "homosexual" does not necessarily carry the same pejorative connotations. While the use of gay or queer is widespread, both are sometimes criticized as anglicisms, and even the expression same sex has been increasingly replaced by same gender. Thus, the use of "homosexual" in Brazilian legal and political discourse reflects a different trajectory, which does not erase the ethical responsibility of language choices but situates them in distinct cultural and historical dynamics.

reflects a localized cultural and legal elaboration, whose meaning cannot be fully translated without considering its historical, social, and linguistic embeddedness in Brazil.[10]

From this "affective" context, one of the central grounds for the STF's decision was the right to the pursuit of happiness, implicitly derived from the principle of the dignity of the human person, set forth in Article 1(III) of the Federal Constitution as one of the foundations of the Brazilian Republic. This principle is understood as a consequence of the tradition of liberal ideals, linked to the individual freedoms of subjects and constituting one of the elements for the realization of personal autonomy and liberty in general.[11]

The decision is also related to a broader paradigmatic shift in the legal understanding of the concept of family that has taken place in Brazil in recent decades. Until then, the family was understood as the foundation of society, but especially as a legal institution aimed at protecting the property of its members. This purpose of the family was present in the former Civil Code. The new Civil Code, enacted in 2002, together with the new constitutional principles introduced by the 1988 Federal Constitution, redefined the legal meaning of family, now understood as a space in which its members, united by affectivity, develop as persons and promote the means to pursue their happiness and dignity.

In this way, the family becomes a social institution justified by the realization of affective relationships among its members, a space in which individual, conjugal, and familial happiness is materialized. In this new context, the decision under analysis not only recognized but also shaped gays and lesbians as homoaffective, within a specific matrix of emotional intelligibility and normative affect.

A striking aspect of the judgment is the repeated affirmation of affect as the legitimate foundation of same-sex civil unions. The decision is not structured around equality in abstract terms, but rather on the sentimental content of conjugality. In the words of Justice Ayres Britto, the *homoaffective civil union* constitutes a family unity formed by two persons of the same sex, united by the bonds of affection, mutual respect, and a common life project. He elevates affect to the condition of a constitutional

[10] On the juridical coinage and diffusion of "homoaffectivity" in Brazil, see Dias (2011a; 2011b); Coacci (2015); Rios (2013).

[11] The request for recognition of same-sex civil unions had already been brought before the STF on other occasions and on the basis of different arguments and principles, but was not granted. In 2003, the matter was examined in a Public Civil Action (2000.71.00.009347-0/RS); in 2006, in ADI 3300.

substance, even declaring that love, when sincere, is not evil and cannot be criminalized (Brazil, STF 2011: 21, 23, 39, 47).

However, by projecting a "sanitized" figure of affect, the judgment places affect at the centre of legal legibility, transforming it not only into a basis for inclusion but also into a criterion of acceptability. What the Court embraces is not merely difference, but sentimental normality.

Justice Luiz Fux reinforces this affective framing, arguing that the Constitution protects all family forms animated by affection and reciprocity. He emphasizes the capacity of same-sex couples to mirror heteronormative emotional ideals. For him, love and care are what make a union worthy of protection, thereby excluding—albeit implicitly—those relationships marked by other forms of affect, other rhythms, or other structures of kinship (Brazil, STF 2011: 64).

Fux imparts to his opinion a strong liberal and human rights tone. He emphasizes international jurisprudence and constitutional equality, yet still returns to a recurring motif: homoaffective couples are capable of loving and of leading a family life (Brazil, STF 2011: 65–70). The emphasis on capacity reveals the normative economy at work: affect must be proven, dignified, and recognizable according to heteronormative standards. Recognition, in this context, concerns less the granting of rights than the affective performance itself, generating a kind of emotional audition before the law.

Justice Ricardo Lewandowski, although voting in favour, expressed a certain discomfort. He cautioned against the "judicialization of politics" and defended the primacy of the legislature, insisting that courts should not overstep their constitutional mandate (Brazil STF 2011: 101-102). His position reveals not only institutional caution but also the limits of consensus within the Court: the recognition of homoaffective civil unions was not the result of a unified progressivism, but of a fragile alignment under strict affective conditions, a conquest constantly threatened by conservative positions.

This institutional caution should not be read simply as a conservative hesitation. Rather, it illustrates how the Court, constrained by accusations of "judicializing politics", sought to legitimize its role by working within a narrow semantic and affective frame. Precisely by avoiding the charge of legislating, the Court resorted to a grammar of fidelity, stability, and love that rendered homoaffective unions intelligible only as a derivative of the heterosexual model. In this way, judicial restraint itself becomes part of the disciplinary apparatus: rights are granted, but only precariously,

conditioned on their assimilation into pre-existing normative forms. This tension—between a legislature unwilling to move forward and a constitutional court bound by its own limits—reveals why advances for sexual minorities in Brazil often arrive as fragile judicial concessions, constantly threatened by conservative pushback.[12]

In this vein, Justice Gilmar Mendes understood that the decision did not recognize a "homoaffective civil union [*união estável homoafetiva*]", but rather a "civil homoaffective union [*união homoafetiva estável*]". This semantic inversion, though subtle, reveals the precariousness of the granting of rights, as it indicates that recognition was not achieved on equal footing with the heterosexual civil union, but rather in a derivative and exceptional manner. The result is that the rights guaranteed to same-sex couples remain subordinated, conceived as an extension or adaptation of the heterosexual model, highlighting both the secondary status attributed to homoaffective civil unions and the absence of a general legislation that would protect all family forms on equal terms (Brazil, STF 2011: 132, 147-151, 163-168).

Taken together, these opinions do not merely extend rights. They control the terms under which sexual dissidences may be seen, named, and protected. The homoaffective subject, as produced in this judgment, must be monogamous, emotionally discreet, domestically committed, and rhetorically respectable. Practices and arrangements such as non-monogamous constellations, collective care households, sex-positive communities, or non-domestic intimacies remain structurally misrecognized by a homoaffective frame centred on conjugality and respectability.

In this way, desire is silenced; radical alterity is erased; only domesticated and rhetorically acceptable love is brought to the fore in the Court's decision. As a result, there is little room to inhabit "old" roles in new ways (as spouse, husband, wife, parent, or child), or to reinvent entirely new roles—many of them still unnamed, such as the ambiguous place between partner and lover, or the figure of a friend who performs parental and educational functions without formal kinship ties.

In this sense, the judgment is not merely a space of legal inclusion but also an apparatus of affective disciplining. Its tone is one of benevolent concession rather than structural reparation. The price of visibility is the assimilation of dissidence.

[12] These threats of backlash are not limited to Brazil, as has been recently analysed by various studies. For one example, see Nash and Browne (2020).

[C] AFFECTIVE COLONIALITY AS A STANDARD FOR DECISION-MAKING

The critical reading I develop here does not negate that recognizing the right to a civil union for same-sex couples is a considerable and commendable achievement. In addition, it does not abandon law as a means of affirming meanings of subject liberation; it acknowledges the emancipations operated through law that bring subjects who have been subordinated to a somewhat better situation than the one they previously occupied. I do not contest the judgment's extension of rights as such; my concern is with the affective and conjugal grammar through which rights were granted and delimited.[13]

In this sense, I follow authors such as Sonja Buckel (2014), Elisabeth Holzleithner (2016), Amy Allen (2015), and Wendy Brown (2021). Even so, the critical reading I propose points us toward broader meanings of sexual freedom, which should not be conflated with the very path that law consolidates through its actions of liberating subjects from situations of oppression, exclusion, and domination. My aim with this critique is to convey that there are other interpretive possibilities for the granting and consolidation of rights (Van Pelt 2025).

At this point, I incorporate and adapt two categories from Michel Foucault (1995; 2012). On the one hand, I work with the concept of practices of liberation: collective strategies of institutional transformation that use law as a language of claim and recognition, especially in the context of struggles for sexual rights. On the other, I work with the concept of practices of freedom: everyday gestures of subjective reinvention and normative experimentation that, even at the margins of or against state law, produce other legal grammars and ways of existing. In this case, I am concerned with other possibilities of matrimonial arrangements that are not merely extensions of the hegemonic heterosexual model.

Thus, however much law strives to produce liberations—as in the case of same-sex civil unions—it was created on the basis of a dominant behavioural model in society, here referred to as heteronormative. The

[13] Comparable approaches appear in chapters of the book *Queer Judgments*. For instance, Behara and colleagues (2025) revisit the Indian Supreme Court's landmark decision in *Navtej Singh Johar v Union of India*, queering section 377 litigation through intersectional narratives (trans, intersex, Dalit, sex worker, disabled) silenced in the original case. Similarly, Ferreira and Danisi (2025), in their analysis, highlight that although the Court of Justice of the European Union rejected the "discretion" requirement for asylum, recognition remains normatively constrained by stereotyped expectations of queer suffering and conformity. These readings, like my own, acknowledge the importance of judicial progress while exposing the exclusions embedded in the normative frameworks of recognition.

changes that are promoted in the direction of recognizing other behavioural possibilities are carried out through the expansion of this initial normative core, established on the basis of the hegemonic way of life of various societies. In the case under analysis, I begin from the observation that, even with the changes promoted in the legal models of marriage, they merely expand the possibilities of matrimonial relations from within the heterosexual model. My question is: what other normative formulas of marriage or affects can we accommodate, beyond the heteronormative? This also invites us to consider whether a "reparative reading" (Sedgwick 1997), drawn from queer perspectives, could help expand the normative imagination of affects and care beyond the heterosexual matrix.[14]

In other words, due to the particularities of the legal system, this normalization has as its normative centre the hegemonic meanings of ways of life; or, in the case presented here, normalization is grounded in heterosexual modes of exercising sexuality and matrimonial relations. For this reason, there is a strong tendency to compel LGBTI+ persons either to assimilate hegemonic ways of life or to adapt their own forms of life to models close to the hegemonic behavioural norm, in order to obtain the protection of the legal system.

This process of normalization incorporates into the legal system those sexual dissidences that most closely approximate the heterosexual model, relegating to the background ways of life that are more distant from it (Clavel 2015). Or, in more extreme situations, it will never recognize those ways of life that are unrecognizable or entirely unacceptable according to the dominant parameters of sexuality, affectivity, and marriage. In sum, it is a model of normativity that expands outward from an original normative centre, yet likely fails to reach the most extreme cases, such as those of persons whose lifestyles remain far removed from the heterosexual model.

As Gayle Rubin argued in her seminal essay "Thinking Sex" (1984), sexual hierarchies can be visualized through the metaphor of a "charmed circle", in which practices located near the normative core are marked as legitimate, natural, and respectable, while those at the periphery are stigmatized as dangerous, pathological, or unworthy of protection. This structural diagram of sexual value helps illuminate the Brazilian case: the homoaffective frame expands recognition outward from a heterosexual centre but does so in a way that reproduces the very logics

[14] Sedgwick distinguishes between "paranoid reading", oriented toward exposing and anticipating normative violence, and "reparative reading", which seeks to imagine alternative ways of inhabiting texts, relations, and affects with greater openness and creativity (Sedgwick 1997). In this sense, a reparative approach allows for rethinking how law might expand the normative imagination of kinship and care beyond heteronormative parameters.

Rubin identified, relegating non-conjugal and non-respectable intimacies to zones of structural misrecognition. In this sense, the "charmed circle" provides a comparative heuristic that can be rethought in light of Brazil's particular juridical and cultural configurations.

It is important to stress that not all forms of kinship are legally recognizable as valid. There are situations that must necessarily be rejected within a constitutional and human rights framework, such as cases of physical and psychological violence, sexual abuse, or any other situation of exploitation, domination, and oppression.[15] The distinction between arrangements that may be recognized and those that must be rejected is undoubtedly complex. Nevertheless, despite this complexity, it is the task of law to elaborate sophisticated formulas for social coexistence. Law cannot evade its mission of expanding mechanisms of protection and recognition of diverse kinship forms while simultaneously rejecting those marked by domination, oppression, and exclusion. This normative orientation is grounded not in dominant moral codes, but in constitutional principles, international human rights instruments, and long-standing struggles of social movements—from feminist critiques of gender violence, to LGBTI+ claims against the policing of bodies and desires, to the protection of children and the pursuit of comprehensive sexual education.

Thus, I am not referring to the recognition of any possible form of kinship, but rather problematizing the way in which the legal system develops its sense of normalization from a particular hegemonic model of kinship. What is at stake here is the realization of plural and diverse forms of affectivity without legal normalization being operated on the basis of a heterosexual standard taken as central. As I have argued elsewhere, law may generate important practices of liberation from domination, oppression, and exclusion, yet it also tends to delimit subjectivities through the grammar of recognition (Van Pelt 2025). But at the same time, recent research has questioned the ways in which norms of affectivity and care

[15] These three forms of struggle—against domination, against exploitation, and against subjection—were outlined by Michel Foucault in "The Subject and Power" (Foucault 1995). I further develop this typology in *Encrucijadas queer en el derecho* (Van Pelt 2025) to articulate a queer critique of law in terms of oppression, domination, and exclusion.

are constantly constituted, regulated, and defined both by the state and by capitalist economic dynamics.[16]

It is in this sense that I defend the possibility of a critique of the decision under analysis, without disregarding or denying the advances that have been achieved. What emerges is an emancipation through law combined with a critique rooted in meanings of freedom that lie beyond law itself. This critique is concerned with those who remain outside these legal achievements—whether because they choose to do so, because they cannot embody the subject that law demands for recognition, or because they receive rights only in a precarious and insufficient manner.

When we speak of the acquisition of rights, according to the frameworks of modern Western law, we are referring to a system of norms that recognizes us through a normative artifice of subjection. We are transformed into legal subjects and recognized by this system according to the parameters it itself establishes for our recognition. In this sense, we may say that recognition by law is heteronomous—that is, it is law that designates the characteristics by which we will be validated as subjects of a given right. This is why it is important to pay attention to the details that constitute the subject imagined by law as its addressee, and to think of possibilities for a law that increasingly allows subjects themselves to constitute the forms by which they will be juridically recognized, investing more in an autonomous rather than heteronomous perspective of legal subjection.

Thus, when in the judicial action under analysis we see that the claim is restricted to gays and lesbians—qualified, moreover, by the term "homoaffective", that is, "homosexual subjects" engaged in affective relationships—we limit the debate to the heterosexual–homosexual binary and do not move forward toward seeking the recognition of matrimonial rights for other sexual identities, such as *trans people*,[17] intersex persons,

[16] This article also draws on earlier reflections developed in the collective volume *What is the Future of Sexuality in Law?* (Monica & Martins 2017), which I co-edited. That book gathered empirical research and critical analyses on sexual politics and law in Brazil, serving as one of the main sources of data and conceptual elaboration for my later work (Van Pelt 2025). Another edited volume that develops this approach outside the Brazilian context is *Queer Kinship* (Bradway & Freeman 2022), as well as Part III of *Queer Judgments* (Ferreira & Ors 2025).

[17] I use the term "trans people", while acknowledging that "transgender" is the most common concept in English-speaking contexts. In Brazil, however, "transgender [*transgênero*]" is often regarded as an anglicism, acceptable and intelligible but not widely adopted in activist discourses. In general, the umbrella category "trans people" is used, and there is no major objection to the use of "*transsexuals*", which even appears in the name of the "National Association of Travestis and Transsexuals [*Associação Nacional de Travestis e Transexuais – ANTRA*]". At the same time, the term "travesty" carries a particularly significant political and historical weight in Brazil, marking a distinctive trajectory in the politicization of trans issues, despite ongoing debates about terminology.

non-binary persons, and so forth. We see an advance in law,[18] but without a more complex normative debate on the various sexual identities that, in recent years, have asserted themselves as identities and sought recognition by social institutions.

This analysis resonates with a broader critical literature that has long highlighted the normalizing costs of legal recognition for LGBTI+ subjects. Lisa Duggan (2003) coined the term "homonormativity" to describe how gay and lesbian politics in the United States became aligned with neoliberal and assimilationist values, channelling recognition through marriage, domesticity, and consumer citizenship. Tim Dean (2009) approached similar dynamics from the perspective of intimacy, showing how sexual subcultures and practices that resist conjugality are marginalized in favour of respectable, monogamous models. Libby Adler (2018) further developed these critiques in the legal domain, mapping how reforms often prioritize recognition of the most respectable LGBTI+ subjects while leaving more precarious and marginal groups outside the legal frame. Lee Edelman (2004), in a more radical register, argued that the political order itself is bound to a logic of reproductive futurism, whereby rights are tethered to the promise of family and the figure of the child, making queerness legible only when it conforms to that futurity.

Seen from this angle, the Brazilian category of "homoaffectivity" can be understood as part of a global pattern of disciplining LGBTI+ claims through conjugality. Yet it is not a simple repetition. Unlike the Anglo-American debates, where terms like "same-sex marriage" or "gay rights" dominated, the Brazilian legal field adopted the specifically affect-centred language of "homoaffectivity". This linguistic invention infused the legal grammar of recognition with affect and conjugality at once, producing a juridical subject legible as loving, faithful, and domesticated. Thus, while Duggan, Dean, Adler, and Edelman help illuminate the normative logics at play, the Brazilian case shows how these logics were refracted through a unique juridical neologism, one that both enabled rights and reinforced the boundaries of legibility.

We can include in this discussion the debates on polygamy or other conjugal arrangements that are not limited to couples, whether heterosexual or homosexual. Here, as Daniel Borrillo (2016) suggests, we may return to the principles of private autonomy, non-interference in personal freedom, and the pursuit of individuals' own meanings of happiness. Taking seriously the deeper senses of these principles is a

[18] As already noted, the ILGA World SOGIESC Database (ILGA World 2025) provides a repository of recent developments in gender and sexuality rights in Brazil.

necessary task if we are to confront the moral panic that surrounds human sexuality and to effectively constitute a law oriented toward the harmonization of freedoms and the consolidation of a "democratic law of sexuality" (Rios 2006), rather than the support of a dominant morality that imposes its meanings on the exercise of our freedoms in general, from an assimilationist perspective (Fernández 2003: 410).

Another problem with centring our strategies of rights recognition on LGBTI+ persons is that they—especially those who are white and of high economic status—are the most readily assimilated by the system and, conversely, the ones who most promptly assimilate the behaviours of heterosexual hegemony (Clavel 2015). There is a strong legibility of the legal grammar in relation to white LGBTI+ persons of high economic status. So much so that most of the rights recognized by modern Western legal systems have clear liberal foundations. In fact, what is asserted is the power of the liberal grammar of rights, with a significant reduction in the possibility of constituting other philosophical and political paradigms for rights beyond the liberal one (Monica 2020). This is the process that Encarnación Fernández (2003: 410) called "assimilationism", that is, the predominance followed by the imposition of one culture over others, something that can occur within a given community or in the relation of one community to others.

The major problem here is not the adoption of a model of behaviour that is foreign to us, but the institutionalization of the way of being and living of the majority group, which ends up being presented as the most valid among all.[19] As we see in the decision, same-sex civil unions are made possible only insofar as they meet the same requirements as heterosexual civil unions. A more satisfactory path would be to understand that models of conjugality are multiple, and that what constitutes a conjugal union for non-heterosexual subjects does not necessarily fit the parameters of stability, durability, and publicity, as emphasized in the justices' decision.

As a subalternized group in society, LGBTI+ persons generally live their affective relationships in unstable, non-durable, and non-public ways.[20] This determination of equivalence operates on the assumption that, over time, there will be social acceptance of LGBTI+ to the point that

[19] As I have argued elsewhere, law necessarily operates through forms of essentialism when it seeks to simplify social life into juridical categories. This tension is developed in greater detail in my book *Encrucijadas queer en el derecho* (Van Pelt 2025), particularly in chapter 2, where I examine the difficulties of law in escaping this logic.

[20] Classic works in the sociology of sexuality illustrate this process of subalternization of LGBTI+ lives in their affective and relational dimensions, showing how such relationships are often unstable, non-durable, and non-public (Weston 1991; Plummer 1995; Weeks & Ors 2001).

they will be able to maintain stable, durable, and public relationships; and that LGBTI+ must, in fact, mould their forms of kinship to the heterosexual standard. These two paths are, in my view, specific forms of assimilationism. And they demonstrate the inability—or unwillingness—of the established powers to effectively recognize that we live in a plural society with diverse ways of attaining personal happiness.

This lack of sensitivity to the most varied forms of kinship arrangements and the requirement that civil unions be recognized according to the criteria of heterosexual unions may generate the problem of the "sanitization" of kinship relations—that is, the arrangements of persons who are not heterosexual are read by legal normativity through a romanticized filtering of the notion of affect and love (Van Pelt 2025). Thus, those subjects who exercise their kinship according to the pattern most acceptable to the general culture will be more readily recognized and validated by the legal system. Other arrangements, by contrast, will be read as deviations from the standard, as precarious arrangements, or, in more extreme situations, as kinship aberrations.

In a certain way, the legal system operates an acceptance for same-sex couples when their relationships manifest themselves as forms of kinship closer to the parameters of the general heterosexual culture. In sum, the internal reform of the legal system in relation to marriage is limited to those kinship arrangements that most closely approximate the hegemonic model, translating them into liberal formulas of protection of individuals and individual freedoms, without significant changes to the core values of majority culture.

If we read the 2011 judgment not only for what it affirms but for what it demands, the affective conditions imposed on sexual dissidences become more evident. Recognition there is not unconditional, for it depends on a discursive purification of desire and a public performance of sentimental docility. The homoaffective legal subject must be loving, non-threatening, stable, and discreet. Desire, uncontrollable in its forms, must retreat so that affect may testify and justify—according to standardized affective rules—the achievement of rights.

This is not simply an effect of judicial conservatism. It is a deeper mechanism that structures constitutional imagination itself as a field of affective governance: a colonization of affects in the name of an assimilationism of customs. This affective coloniality does not refer merely to dissident bodies and affects being belatedly recognized by law; it concerns their domestication within the emotional grammars of law. The homoaffective subject must cleanse itself of erotic ambiguities,

non-monogamous inclinations, and public visibility. The Court, in this sense, does not merely adjudicate rights; it disciplines affects, organizing intimacy within a matrix of normative intelligibility.

This affective disciplining is profoundly racialized and classed. The figure of the respectable same-sex couple functions, in Brazil as elsewhere, as a kind of certificate of modernity—a symbol of national progress, frequently used to display liberal tolerance to international observers (Puar 2015). But what forms of sexual dissident kinship are erased in this performance of juridical modernity? Which bodies remain unmournable, unrepresentable, unprotected, "dis-affected"?

Here, Judith Butler's critique of recognizability becomes central. In *Undoing Gender* (2004), they argue that recognition is always shaped by existing norms about what counts as a life. To be recognized is to be legible, but legibility is produced by a prior regime of norms, exclusions, and desires. In the Brazilian constitutional judgment, the legibility of sexual dissident life is conditioned by its proximity to the normative heterosexual form of kinship. The closer the dissident subject comes to "respectable" love, the greater the chances of being recognized.

This is why I resist the language of simple progress or setback in assessing this judgment. The issue is not whether the STF was sufficiently progressive or whether we should position ourselves for or against this decision. The issue is that its affective requirements are symptoms of a deeper machinery that selects, shapes, and produces the types of dissident lives that can appear before the law without scandal.

Recognition, in this sense, becomes a form of colonization. Not the brutal colonization of conquest, but the soft power of juridical affect—what, drawing on Jasbir Puar's (2015) analyses, could be called homonationalist affectability. Rights are granted, but only to those who render themselves affectively acceptable, politically safe, and rhetorically disciplined.

What is obscured in this apparatus is the vast "ecology of sensations" that exceeds the normative couple: friends who become family, lovers who do not cohabit, collectives of care, erotic bonds without kinship, and insurgent intimacies that refuse domestication. These lives remain illegible, not because they are outside the law, but because the law has not yet imagined the vocabulary to name them. Instead of identities affirmed according to a certain sexual and reproductive ideology, we would have an "ecology of sensations", a play of affective energies that would transcend the limits of fixed identities and call for modes of self-organization consistent with this ecological–affective–sexual process.

We should question affective configurations consolidated through ready-made "scripts", presented as if they were fixed structures of our life stories. Instead, these affective configurations should be regarded as consequences of choices and meanings that we inscribe onto our stories, not as determinations given in advance, like roles to be performed in a script already staged. This other "script of the dance of beings" would lead us to understand identity as an "ontological choreography" (Thompson 2005), a "*rara avis*" that dances the cartography of an archipelago (García López 2016: 199), a "queer labyrinth" (López Penedo 2008) of possibilities of being, which demands the normative channels necessary for its realization.

[D] THE RIGHT TO LOVE WITHOUT VEIL OR GARLAND: OUTCOMES OF A CRITICAL READING

What I have expressed thus far is that the 2011 decision must be read not only as a juridical victory but also as a scene of affective sacrifice, of affective colonization. Something was gained, but at the cost of something else: the radical alterity of dissident desire, the scandal of non-normative kinship, the insurgency of erotic presence in public space.

I do not question that the strategy of seeking legal recognition of same-sex civil unions was both interesting and fruitful, given that the legal institution of marriage is still closely tied to its religious meaning and that the request for recognition of equal marriage would have generated considerable controversy in society.[21] After the recognition of the homoaffective civil union, the right to convert a civil union into civil marriage was consolidated in 2013 through an internal Resolution of the Judiciary, thereby resolving, at least momentarily, the matter at hand (Brazil National Council of Justice [Conselho Nacional de Justiça] (CNJ) 2013).

Nevertheless, legal uncertainty remains because we still lack legislative recognition of the right both to civil unions and to civil marriage, whose stability and security are far greater than those afforded by judicial recognition. In extending Sedgwick's (1990) metaphor of the closet, this legislative silence can be read not simply as a lack of knowledge but,

[21] In Brazilian law, there is a differentiation between marriage and civil union, and a determination that the state must encourage the conversion of the civil union into marriage, since the latter is understood as the more perfected model of protection for kinship relations, with stricter and more consolidated legal rules, and bearing a stronger cultural symbolism. Both marriage and civil union are considered family units.

rather, as a form of power exercised through ignorance. The absence of explicit legislative recognition thereby reproduces a structure in which sexual dissidences are tolerated only through conditional judicial concessions, while the law-making body remains closeted in its refusal to openly confront the normative exclusions that underpin Brazilian family law. At the same time, it must be acknowledged that, strategically, much of the struggle has unfolded through the judiciary, precisely because the possibility of bringing the legislature "out of the closet" remains minimal under prevailing morally conservative conditions.

Moreover, an analysis of the justices' discourse indicates that same-sex couples are understood—even if implicitly—as second-class relations. At times they were designated as "new" families; at others as an "alternative" category of family; or by establishing categorical distinctions between "same-sex civil unions" and "civil same-sex unions." According to Wendy Brown (2021: 462), the mark of difference—in this case, being homoaffective/homosexual—when establishing new rights, iterates and reiterates subordination to the normative standard that stands above it.

As much as the term *homoaffectivity* produced positive effects in argumentative rhetoric, facilitating acceptance of the claim by both the justices and society itself (Dias 2011b; Vecchiatti 2019: 53), it also brought into the plane of normativity a concern with meanings of affectivity, generating consequences such as affective colonization, described in the previous section. Affect, also understood as familial love, becomes the principal element to be considered when seeking the recognition of a kinship relation. But what is the content of this affect and this love? What model of affect would serve as the basis for recognition by legal institutions shaped according to the dominant affective and matrimonial model? As Yang (2025) has argued through the notion of the "legal closet", legal strategies that rely on assimilationist rhetoric often remain "closeted" themselves: they secure visibility only by translating dissident forms of life into terms palatable to dominant norms. The Brazilian use of homoaffectivity exemplifies this dynamic, insofar as it makes recognition possible but only at the cost of disciplining affect into respectable, domesticated, and judicially acceptable forms.

The judicialization of the notion of affect has direct implications for the principle of preserving sexual freedom. Sexual freedom would be the "capacity to act erotically without coercion and to express oneself sexually according to one's own choices" (Borrillo 2016: 119). Bringing the notion of affect into the scope of sexual freedom risks limiting it to the parameters of the hegemonic conception of affect and love. From the

critical perspective of sexual freedom defended by Borrillo (2016: 120), the state should become "morally indifferent with respect to the question of sexuality", under penalty of becoming a paternalistic state, determining the very content of affect and love between persons.

As a consequence, it runs the risk of producing a "familist assimilationism" (Rios 2013: 14–15) by conflating sexual freedom with familial kinship.[22] Sexual rights cannot be guided by the notion of family coexistence—hence the use of the term *familism*—since this confusion is inherent to the model of heterosexual kinship relations. This brings serious problems for the promise of diversity and plurality derived from the normative principles of juridical modernity, which end up subordinated to the heteronormative logic (Coacci 2015: 72).

Thus, the best interpretive alternative would not be one that simply repeats and extends to same-sex couples the traditional models of family, marriage, and civil union. What we need is to rethink family law itself and its attachment to hegemonic familist parameters (Coacci 2015: 75). If we fail to take advantage of this opportunity to debate the new directions of sexual rights, we will weaken the interpretive meanings of the principles of private autonomy, sexual freedom, human dignity, and privacy that are most adequate to our present times.

The most appropriate approach would not be the extension of legal protection of civil unions only to same-sex couples, but rather the realization of the deeper meaning of the principles used to sustain the argument that every person, regardless of sexual orientation, gender identity, or other identity factor, should be entitled to establish kinship bonds through the state, independently of the notions of love and affection that may be attached to them. Even if the strategy is coherent with the ways of securing rights within a society marked by strong prejudice against sexual dissidences, a union is not homoaffective, much less heteroaffective; it is a civil union, not necessarily stable, lasting, and public. Likewise, for legal purposes, a marriage is neither homosexual nor heterosexual. It is marriage, it is civil, and it is for all those who wish to constitute, together with others, kinship arrangements for whatever purposes they may desire.

If the scope of recognition of civil unions were limited only to same-sex couples, the state would be reproducing one of its major problems in

[22] One example of this is sexually dissident persons who have been expelled from their homes and decide to constitute a family relation among themselves, without possessing the traditional family bonds recognized by the legal system: ancestry, descent, and adoption. Moreover, they are not in a family relation with the objective of exercising sexual freedom. This is a family configuration with little intelligibility on the part of the legal system.

relation to the addressees of rights: that of establishing a model of legal subject who will receive legal protection, provided that this subjection takes place according to the state's own determination of how we ought to be (Van Pelt 2025).

Finally, the term used in the decision, "same-sex couples", is a common expression in several countries that are also debating this issue. However, sexuality and queer studies have pointed out since the 1990s that sex, like gender, is a concept with cultural nuances (Butler 1990). This breaks with the consolidated sex–gender binary, according to which sex would be a biological term—something given by nature—while gender would be the social construction of our sexual "naturalness". However technical biology and medicine may appear in constructing knowledge about our bodies, their grammar is socially produced.

Consequently, the notion of sex, in its supposed link to what is "natural", is also a cultural construction. In various parts of the justices' arguments, the naturalness of sex and the culturality of gender are affirmed as unquestionable, which does not correspond to the current state of discussion in the field of gender and sexuality studies. Thus, the use of the term "same-gender couples" would be preferable to "same-sex couples", as it is more aligned with the contributions of the more recent gender and sexuality studies.[23]

[E] CONCLUSION: TOWARD AN INSURGENT LEGAL IMAGINATION

The 2011 decision of the Brazilian Supreme Federal Court produced a paradox: it was, at once, a historic affirmation of unions between same-sex couples and a sophisticated apparatus of affective normalization. It did recognize—but did so by taming, filtering, and disciplining. What emerged was not a plural juridical panorama of kinship and affect, but the domesticated traditional figure of the couple: dignified, monogamous, sentimental, and emotionally legible.

This tension lies at the core of the juridical act of recognition itself. As Butler reminds us, recognition is not a neutral act of naming; it

[23] It is important to note that the Brazilian Supreme Court's use of the term "sex" in the 2011 judgment cannot be read through the lens of the current political context marked by the rise of so-called "gender critical" or trans-exclusionary radical feminism debates. At that time, references to "sex" in the decision were not aimed at denying gender or advancing a biologically deterministic understanding of sexuality. Rather, they can be understood as equivalent to "gender" in the constitutional reasoning adopted by the Court, reflecting the linguistic and juridical conventions of the period.

is a regulatory gesture that allows some lives to appear as lives while obscuring others. To be recognized is to enter a grid of intelligibility, one that often demands affective conformity.

The argument advanced in this article does not rest on a claim of Brazilian exceptionalism. Instead, it underscores how the category of homoaffectivity—while overlapping with global logics of dignity and conjugality—was mobilized in a singular way within the Brazilian constitutional order. This specificity helps to explain both the emancipatory effects and the exclusions reinforced by the judgment. In my reading of the judgment, I perceive not only the limits of liberal inclusion but also its affective colonizations. The STF not only affirms rights; it imposes a grammar of affect by requiring same-sex couples to clothe their affects in the language of traditional heterosexual conjugal love.

But what happens to the life that refuses this script? And to those who love without domesticity, who care without legal bonds, who desire without sentimentalism? Law must learn not only to recognize but to host the unknown. Juridical imagination must open itself to forms of life that do not arrive bearing juridical veils or garlands. The task is not to expand the model of marriage but to dismantle it, creating space for the—still—untranslatable, fugitive, or deviant.

I return, then, to the phrase that gives this article its title: "without veil or garland". In the judgment, the sincerity and naturalness of conjugal love between same-sex couples were emphasized. In my reading, I call for a juridical reinvention. To love without veil or garland is to refuse heteronormative adornments, to break with the bestowed ritual legitimacy, and to affirm that love, affects, and life have many other nuances.

About the author

Eder van Pelt *is a professor at Fluminense Federal University (UFF), at the Faculty of Law and the Graduate Program in Sociology and Law. He holds doctoral degrees in Law (Universitat de València, Summa Cum Laude) and in Legal and Social Sciences (UFF). He completed postdoctoral fellowships at the Complutense University of Madrid and the University of Salamanca. His research focuses on the formation of legal subjectivity, identity, and legal personality, with special attention to digital technologies, diversity, social minorities, gender, sexuality, and social inclusion.*

Email: ederfm@id.uff.br.

Website: edervanpelt.com.

References

Adler, Libby. *Gay Priori: A Queer Critical Legal Studies Approach to Law Reform*. Durham NC & London: Duke University Press, 2018.

Allen, Amy. "Emancipação sem Utopia: Sujeição, Modernidade e as Exigências Normativas da Teoria Crítica Feminista [Emancipation Without Utopia: Subjection, Modernity and the Normative Demands of Feminist Critical Theory]." *Revista Novos Estudos CEBRAP* 103 (2015): 115-132.

Behara, Yerram Raju, Malhar Satav & Sal. "Navtej Singh Johar & Ors v Union of India thr Secretary Ministry of Law and Justice (India): Queering Section 377 Litigation in the Indian Higher Courts Through Bringing in Multiple Marginalized and Intersectional Narratives." In *Queer Judgments*, edited by Nuno Ferreira, Maria Federica Moscati & Senthorun Raj, 61-82. Coventry: Counterpress, 2025.

Borrillo, Daniel. "Direitos Emergentes: Uma Crítica do Gênero e dos Direitos Sexuais Desde a Perspectiva Latina [Emerging Rights: A Critique of Gender and Sexual Rights from a Latin Perspective]." In *Diálogos sobre Direitos Humanos Fundamentais*, edited by Célia Barbosa Abreu, Guilherme Pena de Morais & Wilson Madeira Filho, 95-112. Curitiba: Lumen Juris, 2016.

Bradway, Tyler, & Elisabeth Freeman, eds. *Queer Kinship: Race, Sex, Belonging, Form*. Durham NC: Duke University Press, 2022.

Brown, Wendy. "Sofrendo de Direitos Como Paradoxos [Suffering Rights as Paradoxes]." *Revista de Direito Público* 18(97) (2021): 459-474.

Buckel, Sonja. "A Forma na Qual as Contradições Podem se Mover: Para a Reconstrução de uma Teoria Materialista do Direito [The Form in Which Contradictions Can Move: Towards the Reconstruction of a Materialist Theory of Law]". *Revista Direito e Práxis* 5(9) (2014): 366-385.

Butler, Judith. *Gender Trouble: Feminism and the Subversion of Identity*. New York: Routledge, 1990.

Butler, Judith. *Undoing Gender*. New York: Routledge, 2004.

Cardinali, Daniel. *A Judicialização dos Direitos LGBT no STF: Limites, Possibilidades e Consequências* [*The Judicialization of LGBT Rights in the Brazilian Supreme Court: Limits, Possibilities and Consequences*]. Belo Horizonte: Arraes Editores, 2017.

Clavel, Pau López. "Tres Debates Sobre la Homonormativización de las Identidades Gays y Lesbianas [Three Debates on the Homonormativization of Gay and Lesbian Identities]". *Asparkía* 26 (2015): 137-153.

Coacci, Thiago. "Do Homossexualismo à Homoafetividade: Discursos Judiciais Brasileiros Sobre Homossexualidades [From Homosexualism to Homoaffectivity: Brazilian Judicial Discourses on Homosexualities]." *Revista Latinoamericana Sexualidad, Salud y Sociedad* 21 (2015): 53-84.

Conselho Nacional de Justiça (CNJ). "Olhares Plurais: A Institucionalização da Pauta LGBTQIA+ no Poder Judiciário Brasileiro [Plural Perspectives: The Institutionalization of the LGBTQIA+ Agenda in the Brazilian Judiciary]." Boletim Analítico Justiça Plural, No 1. Brasília: CNJ/PNUD, 2025.

Dean, Tim. *Unlimited Intimacy: Reflections on the Subculture of Barebacking*. Chicago IL: University of Chicago Press, 2009.

Dias, Maria Berenice. "Homoafetividade: Um Novo Substantivo [Homoaffectivity: A New Noun]." *Portal Jurídico Investidura* (2011a).

Dias, Maria Berenice. *União Homoafetiva: O Preconceito e a Justiça* [*Homoaffective Union: Prejudice and Justice*]. São Paulo: Revista dos Tribunais, 2011b.

Duggan, Lisa. *The Twilight of Equality? Neoliberalism, Cultural Politics, and the Attack on Democracy*. Boston MA: Beacon Press, 2003.

Edelman, Lee. *No Future: Queer Theory and the Death Drive*. Durham NC & London: Duke University Press, 2004.

Fernández, Encarnación. "How to Combine Universality of Rights and Cultural Diversity?" *Persona y Derecho* 49 (2003): 409–428.

Ferreira, Nuno & Carmelo Danisi. "X, Y and Z (European Union): Who Is Protected as Queer Refugee by the Court of Justice of the European Union." In *Queer Judgments*, edited by Nuno Ferreira, Maria Federica Moscati & Senthorun Raj, 495-511. Coventry: Counterpress, 2025.

Ferreira, Nuno, Maria Federica Moscati, & Senthorun Raj, eds. *Queer Judgments*. Coventry: Counterpress, 2025.

Foucault, Michel. "O Sujeito e o Poder [The Subject and Power]." In *Michel Foucault: Uma Trajetória Filosófica Para Além do Estruturalismo e da*

Hermenêutica, edited by Hubert L Dreyfus & Paul Rabinow. Rio de Janeiro: Forense Universitária, 1995.

Foucault, Michel. "A Ética do Cuidado de Si Como Prática da Liberdade [The Ethics of the Care of the Self as a Practice of Freedom]." In *Michel Foucault: Ética, Sexualidade*, Política 3rd edn, edited by Paul Rabinow & Ors. Rio de Janeiro: Forense Universitária, 2012.

García López, Daniel. *Rara avis: una teoría queer impolítica* [*Rara Avis: An Impolitical Queer Theory*]. Tenerife: Melusina, 2016.

Holzleithner, Elisabeth. "Emancipação por meio do direito? [Emancipation through Law?]." *Direito & Práxis* 7(15) (2016): 889-900.

ILGA World. "Same-Sex Marriage and Civil Unions – Brazil." SOGIESC Database 2025.

López Penedo, Susana. *El laberinto queer: la identidad en tiempos de neoliberalismo* [*The Queer Labyrinth: Identity in Times of Neoliberalism*]. Barcelona: Egales, 2008.

Monica, Eder F. [Eder van Pelt]. "A hegemonia do discurso liberal nos direitos homossexuais no STF [The Hegemony of Liberal Discourse on Homosexual Rights at the STF]." *Revista Direito & Práxis* 11 (2020): 1358-1391.

Monica, Eder Fernandes [Van Pelt, Eder] & Ana Paula Antunes Martins, eds. *Qual o futuro da sexualidade no Direito?* [*What is the Future of Sexuality in Law?*] Rio de Janeiro: PPGSD/UFF, 2017.

Nash, Catherine Jean & Kath Browne. *Heteroactivism: Resisting Lesbian, Gay, Bisexual and Trans Rights and Equalities*. London: Bloomsbury Academic, 2020.

Observatória Nacional de Direitos Humanos LGBTI+ Diadorim. [Observatória Database on LGBTI+ Rights in Brazil]. 2025.

Plummer, Ken. *Telling Sexual Stories: Power, Change and Social Worlds*. London: Routledge, 1995.

Puar, Jasbir K. "Homonacionalismo como mosaico: viagens virais, sexualidades afetivas [Homonationalism as Mosaic: Viral Travels, Affective Sexualities]." *Revista Lusófona de Estudos Culturais* 3(1) (2015): 297-318.

Rios, Roger Raupp. "Para um Direito Democrático da Sexualidade [Towards a Democratic Law of Sexuality]." *Horizontes Antropológicos* 12 (2006): 71-100.

Rios, Roger Raupp. "As Uniões Homossexuais e a 'Família Homoafetiva': O Direito de Família Como Instrumento de Adaptação e Conservadorismo ou a Possibilidade de sua Transformação e Inovação [Homosexual Unions and the 'Homoaffective Family': Family Law as an Instrument of Adaptation and Conservatism or the Possibility of Its Transformation and Innovation]." *Civilística.com* 2(2) (2013): 1-28.

Rubin, Gayle. "Thinking Sex: Notes for a Radical Theory of the Politics of Sexuality." In *Pleasure and Danger: Exploring Female Sexuality*, edited by Carole S Vance, 267–319. Boston MA: Routledge & Kegan Paul, 1984.

Sedgwick, Eve Kosofsky. *Epistemology of the Closet*. Berkeley CA: University of California Press, 1990.

Sedgwick, Eve Kosofsky. "Paranoid Reading and Reparative Reading, or, You're So Paranoid, You Probably Think This Introduction Is About You." In *Novel Gazing: Queer Readings in Fiction*, 1-37. Durham NC: Duke University Press, 1997.

Thompson, Charis. *Making Parents: The Ontological Choreography of Reproductive Technologies*. Cambridge MA & London: MIT Press, 2005.

Van Pelt, Eder, *Encrucijadas queer en el derecho* [*Queer Crossroads in Law*] 2nd edn. Bogotá: Editorial Universidad del Rosario; Granada: Editorial Comares, 2025.

Vecchiatti, Paulo Iotti. *Manual da Homoafetividade: Da Possibilidade Jurídica do Casamento Civil, da União Estável e da Ação por Casais Homoafetivos* [*Manual of Homoaffectivity: On the Legal Possibility of Civil Marriage, Stable Union and Legal Action by Homoaffective Couples*]. Bauru: Spessotto, 2019.

Weeks, Jeffrey & Ors. *Same Sex Intimacies: Families of Choice and Other Life Experiments*. London: Routledge, 2001.

Weston, Kath. *Families We Choose: Lesbians, Gays, Kinship*. New York: Columbia University Press, 1991.

Wittig, Monique. *The Straight Mind and Other Essays*. Boston: Beacon Press, 1992.

Yang, Daryl W J. "UKM v Attorney-General (Singapore): Same-Sex Parenting and the Legal Closet in Singapore." In *Queer Judgments*, edited by Nuno Ferreira, Maria Federica Moscati & Senthorun Raj, 361-378. Coventry: Counterpress, 2025.

Legislation, Regulations and Rules

Constitution of Brazil 1988

Brazil, National Council of Justice ([Conselho Nacional de Justiça] CNJ), Resolution No 175, of 14 May 2013

Brazilian Civil Code (Law No 10.406/2002)

Cases

Brazil, STF. Ação Direta de Inconstitucionalidade No 4277 (ADI 4277), May 2011

Brazil, STF. ADI 3300 – Ação Direta de Inconstitucionalidade, February 2006

Brazil, STF. Arguição de Descumprimento de Preceito Fundamental No 132 (ADPF 132), May 2011

Brazil, TRF4. Public Civil Action, Case No 2000.71.00.009347-0/RS