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**POLÍTICAS DE IDENTIDAD Y GESTIÓN SEXUAL DE LOS CUERPOS: UN  
ANÁLISIS DE LOS DISCURSOS LEGISLATIVOS ACERCA DE LA GESTIÓN  
ESTATAL DEL CONFLICTO TRANS EN CHILE**

**POLICIES OF IDENTITY AND SEXUAL MANAGEMENT OF THE BODY: AN  
ANALYSIS OF LEGISLATIVE SPEECHES ON MANAGEMENT BY THE STATE  
OF THE TRANS CONFLICT IN CHILE**

Dariela Milen Cristi Donoso<sup>1</sup>

**Resumen**

Estos últimos años en Chile, hemos presenciado un incremento de las políticas públicas relativas a la identidad de género en el intento de otorgar soluciones a la problemática que significa para las identidades trans desenvolverse en una estructura social y político-administrativa que les excluye. En ese contexto, este artículo propone una problematización de los discursos legislativos en torno a la gestión estatal del *conflicto trans*, con el objetivo de analizar cuáles han sido y cómo se han configurado las nuevas modalidades de integración de las identidades sexuales disidentes, y qué implicancias tienen éstas para el escenario sociopolítico chileno.

Esta investigación se articula desde los planteamientos de la sociología jurídica, la teoría feminista y la noción de gubernamentalidad. La metodología utilizada fue la investigación documental y el análisis crítico del discurso de todos los documentos emitidos oficialmente por el poder ejecutivo y el poder legislativo de Chile entre el 2007 y el 2017. Los principales resultados apuntan a la ciencia biomédica como el paradigma epistemológico desde el cual

se fundamentan los discursos legislativos. Por otro lado, se identifica una matriz ideológica basada en una relación causal lineal entre sexo-género-cuerpo como axioma de la concepción hegemónica respecto a la problemática trans. En ese sentido, hemos evidenciado cómo las estrategias gubernamentales han delimitado aquellas identidades sexuales que ponen en tensión la taxonomía binaria, bajo los marcos de inteligibilidad de la misma matriz conceptual que los excluye, y con ello han configurado nuevas modalidades de normalización. Lo que resulta clave para la reconfiguración de una ciudadanía excluyente, en cuanto se institucionalizan normas socio-sexuales que definirían las nociones emergentes de la figura de ciudadano/a, evidenciando que se enmarca en las fronteras del no-ser a toda corporalidad que no se manifieste bajo los márgenes de inteligibilidad que impone la lógica científica-colonial y la estructura político-administrativa del país.

*Palabras clave:* identidad de género, políticas públicas, conflicto trans, cuerpo sexuado, discurso legislativo

## **Abstract**

In recent years in Chile, we have seen an increase in the number of public policies relating to gender identity, that attempt to provide solutions to the problem for trans identities of having to live in a social and political-administrative structure that excludes them. In this context, this paper proposes a problematization of the legislative discourses on the State's handling of the trans conflict, in order to analyze what the new modalities of the integration of sexually dissident identities have been, how they are shaped, and what implications they have for the Chilean socio-political scene.

The research is based on proposals from the sociology of law, feminist theory and “governmentality” theory. The methodology used was documentary research and a critical analysis of the discourse in all the documents officially issued by the executive and the legislative powers in Chile between 2007 and 2017. The main results of our research point to biomedical science as being the epistemological paradigm on which legislative discourses are based. Also, an ideological matrix based on a linear causal relationship, between sex, gender, and body, is identified, as an axiom of the hegemonic conception of the problem of trans. In this regard, we have produced evidence to show how government strategies have defined those sexual identities that put pressure on the binary taxonomy, within the frameworks of intelligibility of the same conceptual matrix that excludes them, and in this way, have produced new modalities of standardization. This is crucial for the reconfiguration of an exclusionary citizenship, in so far as the socio-sexual norms that define the emerging notions of the figure of the (male or female) citizen are institutionalized, with evidence to show that it is very close to treating as non-existent all corporality that does not manifest itself within the margins of intelligibility imposed by a scientific-colonial logic and the political-administrative structure of the country.

*Keywords:* gender identity, public policies, trans conflict, sexed body, legislative discourses

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### **Statement of the problem**

In recent decades, LGBTI+ movements have brought to light the many instances of violence that directed against their members, and the consequence has been that the problem of so-

called “sexual diversity” has found a place on the political agenda. In Chile, this has meant a series of public policy initiatives designed for the protection of these identities, policies – along with others that are concerned with sexual reproduction and the prevention of gender violence – that are a sign of how the State has extended its reach into different areas of life, going beyond what is understood as public, and inserting itself into the private sphere as a new space for political intervention. Julieta Kirkwood (2010) calls this the *socio-emotional turn* of public policies, which implies the regulation of “how life is to be reproduced and under what conditions, and how it should be lived and how it should protect itself” (Sabsay, 2011, p. 22). This could also be understood through the Foucaultian notion of “governmentality”.

The Argentinian sociologist Leticia Sabsay (2011) proposes that to secure this “governmentality” in neoliberal democracies, it was necessary to work on the formation of citizenship and the construction of subjectivities. Which is further compounded if we refer specifically to policies having to do with the recognition and protection of sexual identities. In the way they are designed, these policies necessarily define such identities, in so far as they classify the differences, in taxonomies, and institutionalize certain socio-sexual norms, with the aim of broadening the frames of intelligibility of political citizenship, and so integrate those sexual identities that had previously been marginalized.

It is in the context of this socio-political and theoretical scene that I propose that there is a *trans conflict* which is developing in two directions at the same time. Firstly, it is difficult for trans people to function in a social and political-administrative structure that excludes them and marginalizes their frames of intelligibility, making it harder for them to proceed with dignity. Secondly, the notion of *trans* creates conflict in the socio-sexual structure itself, to the extent that these identities in particular overflow the binary and dichotomous

classification of sex and gender; which makes it a threat to the heterosexual matrix on the basis of which the social and political-administrative structure of the Nation State is built.

In this regard, it is relevant to ask what the frames of intelligibility are on the basis of which the judicial frames are built today, and how these change or adapt as demands concerning respect for sexual rights are registered in society. Which makes it essential to explore the process by which these State strategies have created transformations in previously established classifications, which litigations and pressures have been created with this modification, and how this dispute is managed by the institutions of power. To this effect our research paper proposes to problematize the legislative discourses on the State's management of the *trans conflict*, with the aim of establishing what the new modalities of integration for these dissident sexual identities are, and how they have taken shape. In line with this aim, and in order to reveal these relations, a number of questions arose, which we seek to answer in this paper: Which have been the State's strategies for dealing with this trans conflict and how have they been applied? What is the epistemological paradigm that this legislative discourse is founded upon? Which are the pressures and the transformations that we were able to note in these legislative discourses? And what implications do they have for the socio-political context in Chile? These considerations brought us to the general objective of the research: which is to Analyze the composition of the legislative discourses on management by the State of the *trans conflict* between 2007 and 2017 in Chile.

### **Social-historical background**

For the purposes of this research it is essential to characterize the socio-political context in the world and in Chile, in order to identify the social-historical conditions that made it possible for these legislative discourses in particular to arise.

In 1954, the endocrinologist Harry Benjamin introduced the term transsexuality into his studies, as a diagnosis given to people who lived or wished to live in the gender role opposite to that of the sex assigned at birth. This made it possible for certain foundations or clinics to be set up at the end of the 1960s, where a significant number of sex-change operations began to be performed. In the face of this situation, it became necessary to conceptualize scientifically the criteria which psychiatry would have to respect for diagnosing those who wanted this reassignment of their sex. And in 1980, the third diagnostic and statistical manual of mental disorders (DSM-III) came out with the terms *Gender Identity Disorder* and *Transsexualism* included in it. These categories were replaced in the fourth Diagnostic and Statistical Manual of Mental Disorders (DSM-IV), of 1994, by *Gender Identity Disorder* and *Transvestic Fetishism*, and these were ratified in the year 2000, finally ending up as *Gender Dysphoria* in DSM-V, published in 2013. Further, the most recent International Classification of Diseases (ICD-10) (valid till 1 January 2022), published by the World Health Organization in 1992 (the year that homosexuality was removed from the list), puts transsexualism into the chapter on Mental and Behavioural Disorders, specifically in the section on Gender Identity Disorders, where it goes by the names of *Transsexualism* and *Transvestism*, or *Gender Identity Disorder* (OMS, 1992, pág. 345).

With regard to the legal system worldwide, we have been able to see during the last ten years an increase in the number of policies for the protection and recognition of sexual identities marginalized in the political system, and in the preparation of various protocols and international agreements to encourage the treatment of people in this category with dignity, thanks to pressure from the work of LGBTI+ movements, who have brought to light the infringement of human rights for sexual dissenters in the course of history.

In Chile, until ten years ago, there was no government regulation for the health care of trans people, but sex-change operations had been going on for over forty years, and these depended entirely on the goodwill of the doctor and the ethical committee of the hospital. Then in 2008, when a number of hospitals refused treatment, many public denunciations were made by LGBTI+ movements, which allowed gender dysphoria to be admitted as a public health problem. In this situation, the Homosexual Integration and Liberation Movement, *Movimiento de Integración y Liberación Homosexual (Movilh)* delivered a proposal addressed to the Chilean Ministry of Health, *Ministerio de Salud de Chile (Minsal)*, which called for the passing of a “clinical roadmap for the care of persons with a discrepancy between their physical sex and their gender identity” (though the wording of the official title when the law was passed differs significantly from that of this proposal; see below), the *Vía clínica de Atención a personas con discordancia entre sexo físico e identidad de género*, which was the responsibility of the Department for the Control and Prevention of Diseases, of the Subsecretariat of Public Health. With this first pilot plan, came a torrent of notifications that came to complement the regulations for the medical care of trans persons.

Now as there is no specific regulation in Chile that allows transgender persons to change their name and sex, law n°17.344 ( Ministerio de Justicia, 1998) which concerns the authorization of a change of name and surname by the Civil Registry, has been used. With this gap in the law, the Tribune and the Civil Registry could arbitrarily make requirements for being granted permission to have a change of name and sex, among which was an examination by the Legal Medical Service to prove there were signs of hormonal treatments or surgical intervention. Further, they had to produce the diagnoses of a (male or female) psychiatrist and psychologist, and witnesses who would testify that this person was recognized as having had his or her current gender identity for at least 5 years (Rivera, 2009).



Many criticisms have been made of this, starting in 2013 with the admission into the chamber of deputies of the proposal for a law (Ministerio de Justicia y Derechos Humanos, 2019) that seeks to recognize, and provide protection for, gender identity, by eliminating such requirements as surgical intervention or obligatory pharmacological treatment, and at the time of conducting this research was still being debated, but in December 2019 was finally approved, after 6 years in parliament<sup>2</sup>.

## **Theoretical Framework**

### **Performativity of the sexed body and gender**

Feminist theory has developed the analytical notion of a sex-gender system (Casado, 2003), understood as a conceptual matrix based on sexual dimorphism, which through various technologies has become a regulatory structure to manage the relation between sex and gender, producing dichotomous social representations of the subject (Lauretis, 1989).

One of the first criticisms of the conception of a sex-gender system was that of Monique Wittig, who showed that it implied a dichotomous conception of nature versus nurture, proposing that women “are a social category; the product of an economic relation of exploitation and of an ideological construction” (Wittig, 2006, p. 34). This is demonstrably true, if we consider that it was not until the 18th century, with the emergence of science as a paradigm of knowledge, that the single-sex model was surpassed, and the notion of sexual dimorphism was established, under a bio-statistical conception of health, in which a standard that went on to acquire the value of a norm, was defined on the basis of statistical methods that made it possible to establish parameters for measurement, which act as a normalizing power. In this case, a normalizing power over sexed bodies.

Following the same line of thought, Judith Butler (2007) proposes that neither sex nor the body have an origin that predates culture and language, but are constructed through the same discursive practices and expressions of gender that operate through the institutionalization and repetition of certain gender norms. And in this way they come to form one of the most consolidated truth regimes in our cultures, through what she calls the *performativity* of the body, sex and gender. So she proposes a re-formulation of how the body had been understood under the conception of a sex-gender system, now no longer conceiving of it as a passive receiver of a cultural meaning, but placing it instead under a constructivist and dialogical conception. This meant an epistemological break with the classical nature-nurture dichotomy, which went on to call into question the essentiality of sexual categories, on which *first wave and second wave feminism* had been based, thus transforming the meanings that had been given up till then to the relation of sex to gender and body.

Added to which, feminist theory (Rich, 1998; Wittig, 2006) problematizes what it calls the heterosexual matrix, understood firstly as a compulsory institution that runs through and regulates social relations, and secondly as a political regime that operates as the support of the modern social contract that the whole social and political-administrative structure of nation states depends on. It becomes a political regime not just through coercion but from the construction of a body of representations by means of various mechanisms and apparatuses of socialization. Which is how the heterosexual matrix becomes a conceptual matrix that supports social-political structures.

### **The performativity of scientific and legal discourse**

The theory of the performativity of discourse has as its base the so-called linguistic turn given to post-structuralism, making the power of the structuring agency of the discourse over social

reality apparent. Following this idea, Foucault (1992; 1996) proposes that discourse is a material network of symbolisms and representations, operating as a mechanism of political power to the extent that its action takes part in the construction and installation of certain frames of intelligibility, which would come to support the explicative models that the installing of an epistemological paradigm made possible. Hence the importance of studying the configuration and the exercise of the discourse, with the aim of conducting a historical reconstruction of the truth regimes that are installed, through their relation with other mechanisms that exercise their power over the social body, such as the legal and scientific powers. At this point the Critical Analysis of Discourse (Dijk, 2016) comes onto the stage, conceiving of discourse as a social product but also as a political device that is a reflection of the prevailing ideology, studying discourses in their social interaction, and in their power relations, by means of its capacity for action as producer and reproducer of the socio-political structure and the cognitive structures in use.

In this way, scientific discourse takes the form of a significant practice productive of social representations, from which defined frameworks of thought and intelligibility are installed. This constructivist view of science has been developed by Feminist Epistemology (Abreu, 2009; Harding, 1996; Ortiz, 1997; Sedeño, 2008), which has given examples of the power relations that exist in the various fields of the production of knowledge, and especially in scientific knowledge. It has elaborated a consistent critique of the classical foundations of science, by questioning science's claim to be neutral and its dichotomous conception of the relation of the subject to the object of knowledge. This way it has recognized the scientific paradigm of a producer of truth as one on the basis of which systems of representations are made that make it possible for a particular social and conceptual order to be established.

Following on from the performativity of discourse, the sociology of law (Durkheim, 1997), corresponding to the sociological study of the laws that emanate from the organs of State, considers the law and its public policies as discursive constructions by institutionalized power, which act as the basis for legitimizing the socio-political order. Ochy Curiel, (2013) a Colombian anthropologist, states that legal and legislative discourses are a reflection of the existing power relations in social reality and a manifestation of the hegemony of a country, from which the social imaginary materializes. In this sense, the legislative discourse would operate as a mechanism of power not only in the exercise of establishing laws and social norms, but also in the configuration of representations of the social world.

### **Governmentality**

The notion of governmentality (Foucault, 2006) refers to a mode of operation in which biopolitical practices work silently on life, in order to direct its conduct through its own self-regulation by means of inculcating an ideal that conditions the desires and the aspirations within the subjects themselves, and acts as a mechanism for the production of subjectivity. Preciado (2013) takes the Foucaultian notion of governmentality and places it at the heart of neoliberalism, where, she says, the verification mechanism is transformed and becomes more complex, as it is no longer scientific but mercantile and mediatic. Then, what Preciado calls a *pharmaceutical-political regime* is introduced onto this scene, corresponding to a set of endocrinological and clinical techniques, whose aim is to keep up the production of a body that consumes these in order to adapt itself to an ideal that has been transmitted through the media and produces a process of interiorizing discourse, that leads people to identify with the normalization apparatus of certain specific frameworks of intelligibility.

## Methodological framework

This research paper describes our study, of a qualitative kind, of documentary research into data of a secondary type, consisting of all the government and legislative documents that have as a prerequisite of being included: (1) that they must be documents issued and officially published between the years 2007 and 2017, and (2) that they have, directly stated among their objectives, a regulation having to do with the rights of trans persons.

In this framework, the documents to be studied are:

1. The protocol for medical attention: *“Vía Clínica para la adecuación corporal en personas con incongruencia entre sexo físico e identidad de género”*.
2. Circular n°31: “Gives instructions for attention to trans persons and to fortify a hospital structure friendly to persons of sexual diversity in establishments belonging to the assistance network”.
3. Circular n°21: “Reiterates instructions on attention to trans persons in the network of assistance”.
4. Minutes of the session in the Senate of the Law on gender identity 21/01/14
5. Minutes of the session in the Senate of the Law on gender identity 12/11/16
6. Minutes of the session in the Senate of the Law on gender identity 31/05/17
7. Minutes of the session in the Senate of the Law on gender identity 07/06/17
8. Minutes of the session in the Senate of the Law on gender identity 13/06/17
9. Minutes of the session in the Senate of the Law on gender identity 14/06/17
10. Minutes of the session in the Senate of the Law on gender identity 16/06/17
11. Bulletin N°8.924-07 of 10.03.14. Indications formulated during the general debate on the proposed law, in the first constitutional procedure, that recognizes, and gives protection to, the right to a gender identity.

12. Bulletin N°8.924-07 of 13.11.14. Indications formulated during the general debate on the proposed law, in the first constitutional procedure, that recognizes, and gives protection to, the right to a gender identity.

13. Bulletin N°8.924-07. Indications VII of 13.07.15: Indications formulated for the proposed law, in the first constitutional procedure, that recognizes, and gives protection to, the right to a gender identity.

14. Report of the Committee for Human Rights, Nationality and Citizenship devolved in the proposed law, in the first constitutional procedure, that recognizes, and gives protection to, the right to a gender identity. Bulletin N° 8.924-07 of 27.06.2013

15. Second Report of the Committee for Human Rights, Nationality and Citizenship devolved in the proposed law, in the first constitutional procedure, that recognizes, and gives protection to, the right to a gender identity. Bulletin N° 8.924-07 del 15.12.2015

16. New Second Report of the Committee for Human Rights, Nationality and Citizenship devolved in the proposed law, in the first constitutional procedure, that recognizes, and gives protection to, the right to a gender identity. Bulletin N°8.924-07 of 26.05.2017

17. Proposed law presented 03/05/2013

18. Proposal by MOVILCH: “Counselling and medical attention for transsexual persons in Chile”.

The analytical techniques used correspond to sociological discourse analysis and critical discourse analysis.

Sociological discourse analysis adopts three levels of analysis: textual, contextual and interpretative. The textual level refers to description and analysis of the content of the discourse to be studied. On this level, the second specific objective, of describing the contents of public policies, is analyzed. The contextual level refers to analysis of the social context in

which discourses arise, are produced, and are enunciated. It is on this level of analysis that the first specific objective, which corresponds to characterizing the socio-political scene of the process of elaboration of the Chilean public policies relating to the management of the *trans conflict*, is addressed.

Finally, the interpretative level corresponds to the relation that is made between the findings of the two previous levels of analysis. The second proposal of analysis corresponds to a critical analysis of the discourse (Dijk, 1999), which can be matched to the interpretative level of sociological discourse analysis, combined with the fact that it proposes to explore the power relations of the context of the enunciation in which the discourses arise. In this case, an attempt is made to reconstruct the context in which the narratives and practices that go to form the hegemonic State derived discourses, with regard to the concepts at play in the management of trans identities, take place. So it is from this proposal of analysis that the third, fourth and fifth specific objectives are developed, which correspond to examining the social representations present in the conceptualization of the *trans conflict* in the legislative discourses; identifying the epistemological paradigm that forms the basis of the legislative discourse on the State's management of the *trans conflict*; and inferring what the implications of these discursive strategies are, for the socio-political scene in Chile.

But apart from this, we shall direct the analysis by means of a codification undertaken of the key concepts developed in the theoretical framework of the analytical dimensions<sup>3</sup> identified for each specific object, that will orientate the questions to be made of the corpus (See Appendix 1).

## **Principal findings**

### **Deployment of the State's strategies with regard to management of the problem**

Firstly, it was seen that the only two areas that these legislative changes were directed to were: (1) the administrative area, where the proposed law *recognizing and providing protection for the right to a gender identity*, submitted to congress in 2013, took concrete form (2) the area of health, where the protocol for medical attention, *Clinical roadmap to adaptation of the body for persons with a discrepancy between physical sex and gender identity*, papers N°34 and N°21, had *Instructions for attention to trans persons and fortifying the structure of a hospital friendly to persons of sexual diversity in establishments of the assistance network*<sup>4</sup> (Subsecretaría de Salud Pública, 14 de Junio 2012) (Subsecretaría de Salud Pública, 13 de Septiembre del 2011).

### **Theoretical assumptions: The representations behind the principal conceptualizations**

It is of fundamental importance to explore what the theoretical assumptions that lie behind the arguments and conceptualizations that run across the trans conflict are.

Firstly, the notion of **sex** as a constituent part of the body is one of the most unified and congruent conceptions we could find. In spite of the different political-moral postures that exist behind the arguments of every sector, we can see that sex is unanimously conceived of as an objective, natural element, related to biology and, especially, dichotomous.

Another quite homogeneous conception is one to do with **gender**, where all perspectives come together in agreeing that this is a socio-cultural expression that defines differentiated roles and expectations on the basis of sexual dimorphism. Another important idea is that gender is understood as a central element in the process of building an identity. This representation fits into what feminist theory has called a sex-gender system, in which gender cannot be understood without sex, as gender is conceived of as being the cultural expression that causes the sexed body.



With regard to the conception of gender identity, we observe two shared premises. (1) That sexual identity is a component of every human being. And (2) that it is dichotomous, with only two genders recognized: male and female. Disagreement comes over its construction and composition. One side sees it as a personal experience built in a cultural structure of gender, and another side give it a “biological” component by proposing that it is made up on an anatomical-physiological base.

Representations concerning the *trans conflict* would appear to have the most disagreements and discursive tensions; however, a representation of the conflict is seen to run through the differences stemming from the point of view of scientific-biological logic, as set out in the proposed Clinical Roadmap of Medical Attention, elaborated by Movilh:

There are important structural and neurochemical similarities between the brains of transsexual persons and the typical brain of a person of the sex that they feel identified with (...) the study reports, after explaining that alterations in gender identity may develop as the result of an altered interaction between the development of the brain and sexual hormones (Movilh, 2007, p. 6).

The same idea can be appreciated in the objectives made explicit in the first official government-produced document to do with the material studied, the Clinical Roadmap of Clinical Attention issued by MINSAL:

Directed to attending to persons with discrepancies between their physical sex and gender identity who are more than minimally affected, where sanitary measures may

be justified. (...) facilitating hormone treatments and operations of genital re-assignment to help people adapt their bodies to their true identity (VCAC, 2011, p. 4).

Behind these words can be detected an individualization of the conception of a *trans conflict*, understanding it on the basis of an inner incongruity that relates its neuronal dimension to the physical. Here we can see that a mind-body duality is one of the principal axioms running through the different bases of these discourses, in so far as the discrepancy between sex and gender identity appears in all the arguments as the cause of the trans conflict. In effect, what is found behind these proposals is the idea of the “wrong body”. It is understood that gender identity corresponds to a particular body, hence the discrepancy. This allows us to identify the conception of a linear causal relation between body, sex and gender behind these representations.

Another element that appears to be a requirement in these new laws is the expression of gender. Thus we infer that gender identity is still regarded as the particular expression of a gender, apparent in the image of the body. This gives grounds for believing that there is a need for a social and legal demonstration that ratifies the gender identity itself, not just from the political-administrative apparatus, but also from an image of definite sociocultural patterns.

### **Hegemonic epistemological paradigm**

To proceed with the analysis, it was of fundamental importance to explore the epistemological paradigm that is found behind the basic assumptions of the legislative discourses, seeing as how this provides us with the frameworks of intelligibility within which reality is read. In other words, it is an organized corpus of knowledge, and the system of

cognitive reference that is found at the base of the structures of thought of the social actors participating in the political spaces of discussion and construction of these public policies. The insights for the analysis of this come to us from identifying the theoretical assumptions previously explained, the validated voices that are able to accede to political speech in a formal space, and the requirements for acceding to the rights enshrined in these public policies.

In this systematizing we could confirm the great quantity of *expert voices* in the shape of medical surgeons, endocrinologists, psychiatrists, lawyers, and others; who are far more numerous than the trans persons who were allowed to be considered direct beneficiaries of this public policy. So their recognition, from the formal political realm, would be from subjugation, and not from a place of agency and self-determination, even though it was political actors who made the large scale of visibility given to this problem, possible. These people are extracted from their political word, to be arbitrarily represented by voices that have been legitimized and validated by the socio-political system. Which is apparent in the very organizations representing the beneficiaries, where the same logic of validation by this expert and technical knowledge can be appreciated. Which shows the power relations of the different fields of knowledge production established in our society. In this case, a legitimizing of technical knowledge, that is specifically biomedical and legal, over empirical and biographical knowledge, proper to the first person's daily experience of living with a trans corporality and identity.

These power relations in the various fields of knowledge are also seen in the requirements established for people to accede to the rights that these new legislations grant them. They tend to insist on an authorization by some psychiatric doctor, thus inhibiting self-determination and the right to autonomy over one's body, because of the obligatory nature

of having to submit to examinations in order to be able to show a medical authority a diagnosis of “gender dysphoria” within the parameters set by DSM-IV or CIE-10. Added to which, an evaluation of mental health, to see if you are in optimum conditions for taking this decision. Here we see that the principal paradigm on the basis of which the *trans conflict* was conceived of and therefore its management was directed, is that of the biomedical paradigm. This is based on the installation of science as a paradigm of knowledge. The installation of this epistemological paradigm implies a conception of reality founded on the dichotomies of nature/nurture, categories that we understand have governed, and have been consolidated, as the foundation of Western Cartesian thinking, and are the product of modern rationality, on the basis of which our colonial states were established. In this way, it operates as the main support and foundation of the material and cognitive authority that is given to the practice of judicial, legislative and government power.

### **Implications for the socio-political world**

The way in which these protocols have been elaborated and applied has allowed new forms and new contents of socio-sexual normativity to be introduced. This has implications for two different areas that are, however, tightly linked: for the social and political-administrative structure, on the one hand, and for the political movement of sexual diversity or dissidence, on the other.

With regard to the first of these, the institutionalizing of these new socio-sexual norms might come to imply the denaturalization of certain key notions that had previously ruled in cultural frameworks, which could lead to encouraging new notions relating to the figure of (male or female) citizen to arise. So for this figure to still work under this neoliberal governmentality, it is necessary for there to be a reordering of the socio-political structure

that adapts to the transformations that the socio-cultural field experiences. This would be achieved through the refitting of the legal and political frameworks that order the political-administrative structure, and with the production of a specific type of subjectivity and citizenship.

Thus we can appreciate how the discursive structure of identity policies, moves the goal posts of what is acceptable, with the aim of including and making visible those identities and corporalities that did not previously fit into the frameworks of the social and political-administrative structures, but not going so far as to question the very frameworks of intelligibility from which they are permanently excluded, such as the dichotomous conception of sexuality, and the causal relation between identity and the expression of gender. This is what Foucault calls “conditions for acceptance”, which modify, through regulated intervention in the field of possibilities of action for subjects, the vital conditions that rule their existence, with the purpose of conditioning their conduct. In this case, by establishing a cognitive order that allows a transition of gender, but only under certain criteria, in so far as it limits the possibilities of choice to a binary and dichotomous sexual taxonomy, if one does not wish to be left in an ambiguous situation. Secondly, this mobility is only ever made possible when the assigned gender role is adapted to the identity that the subjects choose, adjusting themselves to the regulatory framework of the markers of gender legitimacy. In this sense, conducts are directed towards what is considered legible in the representations of the socio-cultural and political-administrative context, in this case the transformation of the body towards a sexual normalization, if it is to be considered a subject with rights.

Nelly Richard has a very good description of the current state of socio-political practice in Chile, that identity policies are not excluded from:

The mechanisms responsible for normalizing the social, were the *market* and *consensus*, under the directive of a (pseudo) integration of the diverse and the plural. (...) The consensual model of the government of transition marked a move of politics away from *antagonism*, to politics as a *transaction*: the formula of a pact and the technicalities of its negotiation that should conciliate or reconcile a divided society around a new equilibrium (Richard, 2001, p 227).

In this context, political transactions are reflected in the need to adapt that is required by the legal order in order to gain the right for one's gender identity to be recognized and protected. There therefore continues to exist an exclusion of other identities that do not adjust to these requirements, and, by the way, the division of a movement that has had to negotiate and give up its autonomy and self-determination in order to gain access to its basic rights, in so far as its members now have to submit to being classified as pathological in order to be able to accede to those rights. Which is effected by standardizing the differences in respect of those who represent the smallest break with the frames of intelligibility of the heterosexual matrix as the socio-sexual order. In this sense, the new legislations only allow access to trans persons who are willing to transform themselves and their dress to fit the lineaments of the ideal of subjects permitted in the frames of intelligibility of the political administrative status quo: that is, as man or a woman.

So it is, that this management of the trans conflict implies a strengthening of the sexual and gender categories constructed on the basis of a dichotomous and static codification. The delimitation of a dichotomously sexed citizenship would be a manifestation of the categorization mechanism, which displays a significant normative and practical

structure that is crucial to the process of constructing an identity, in so far as it operated as a device to capture and enclose multiplicities in static limited categories, such as gender identity. This, according to Lazzaratto (2006) might be understood as a neutralizing of the potential of the many combinations and possibilities of sexualities.

In this way, through the biomedical and legal institutions, the heterosexual matrix has assumed the form of another dimension of governmentality, entering the socio-political field in which individuals develop, through a process of institutionalizing socio-sexual norms, which allows the conditions to exist for a performativity of the sexed body, and from which emerging notions of the citizen are defined, and this suggests that they would be framed on the borders of the non-existence of all corporality and subjectivity that is not manifested within the frameworks of intelligibility imposed by scientific logic and the political-administrative structure.

## **Conclusions**

We have seen a legislative discourse that is far from being homogeneous. Not only in parliamentary discussions, which was to be expected, but also coming from the executive power itself.

In effect, a transformation was observed of certain conceptualizations that were crucial when this problem was first addressed. However, even though the ideas that we met with were heterogeneous, a study of the representations of the principal elements running through this conflict allowed us to recognize a number of theoretical assumptions that run through the different arguments of the various political sectors. Following this line of enquiry, what we find behind these proposals is the conception that there is a congruence, that is to say a linear causal relation between sex, body and gender, when we think that the

*trans conflict* depends on the idea of the *wrong body*. So in spite of any differences between the proposals for managing the problem, we never leave the epistemological framework that makes a distinction between nature and nurture, and, on the basis of this incongruence, between mind and body.

In this way, the individualization of the conflict actually hides the socio-political causes that run through it, in so far as it does not recognize it as a conflict whose origin lies at the heart of the discrepancy between physical sex and the social representations that have been built from it, but only an interior discrepancy that relates its mental dimension to the physical, and that keeps reproducing these dichotomies, on which the essentialisms of the structure of gender are based. Following the same line of thought, these legislations point to an individual resolution of the conflict, which makes it harder to think of a possible solution directed at a socio-cultural transformation involving the structure of gender, to the extent that it does not problematize the conceptual matrix which these sexual identities are excluded from in advance.

In this way it can be understood that the first legislation was directed towards the biology and the psychology of individuals, through a collection of endocrinological and clinical techniques, which Preciado (2013) would call *pharmapolitical*, as a strategy for management of the body. This pharmapolitical regime is set in a socio-cultural context overrun by the mediatizing of an aesthetic and pharmaceutical market. In this sense the body-image takes a most pertinent role as a primordial element of the present time in this game of producing subjectivities and corporalities, in this case unsatisfied subjectivities. Which can be appreciated clearly in exploring the epistemological paradigm that can be found behind the discourses analyzed, where the expression of gender (image) and medical authorization



(scientific knowledge) are established as requirements for access to the rights that these new legislations aim to grant and safeguard.

From this systematizing and analysis of the government's strategies, followed these last ten years in Chile, we can affirm that, on the one hand, these legislations may be considered an advance, in so far as they grant material possibilities of improvement for those who wish to accede to a sex and gender change, by allowing this transition to take place. However, on the other hand, this mobility is limited to the extent that the idea of freedom of choice is framed on a spectrum of already defined possibilities, and it is only possible through submission to various requirements set out by the legal order. The question therefore arises: how does the State propose to give protection to these alternative identities, without transforming its own matrix, from which they are produced and excluded?

To conclude, it should be mentioned that there is a terrible absence of any legislation pointing towards a socio-cultural change, one that might materialize in projects of training and raising awareness in the educational world. Which is disconcerting when you consider that one of the main purposes of these public policies has been to struggle against the discrimination and violence that trans people are exposed to. This leaves the Chilean State and its public institutions with an enormous debt still to pay in matters of protection.

## **Appendix 1: Matrix of Analytical Dimensions**

	Objetivos	Categorías de Codificación	Preguntas guías	Dimensiones
<b>Objetivo general:</b>	Analizar la configuración de los discursos legislativos respecto a la gestión estatal del <i>conflicto trans</i> entre los años 2007 y 2017 en Chile		¿Qué tensiones se identifican entre los distintos discursos y representaciones? ¿Cómo se han gestionado estas tensiones?	
<b>Objetivos específicos</b>	1. Caracterizar el escenario sociopolítico del proceso de elaboración de las políticas públicas chilenas respecto a la gestión del <i>conflicto trans</i> durante el 2007 y el 2017	-Contextualización -Actores sociales participantes -Producto de qué demandas -Instituciones y comisiones participantes	¿Qué condiciones sociopolíticas posibilitaron la emergencia y elaboración de estos discursos? ¿cómo se llevó a cabo el proceso de elaboración?	Nivel contextual Análisis del discurso
	2. Describir las estrategias estatales relativas a la gestión del <i>conflicto trans</i> que se han implementado durante el 2007 y 2017 en Chile	-Objetivos -Metodología -Criterios y requisitos -Procedimiento -Consideraciones	¿Cuál es el contenido explícito de estos discursos?	Nivel textual y nivel contextual Análisis del discurso
	3. Explorar los supuestos teóricos presentes en la conceptualización del <i>conflicto trans</i> en los discursos legislativos	Representaciones de: -Sexo -Género -Cuerpo -Identidad de género -Conflicto trans	¿Cuál es el imaginario que se construye desde estas representaciones?	Nivel textual Análisis del discurso y Análisis crítico del discurso
	4. Identificar la matriz ideológica y el paradigma epistemológico que fundamentan los discursos legislativos acerca de la gestión estatal del <i>conflicto trans</i>	-Principales argumentos -Voces expertas - Campos de conocimiento fundamentantes	¿Cuáles son los lentes bajo los que se observa, conceptualiza y fundamenta esta gestión del <i>conflicto trans</i> ?	Nivel Interpretativo Análisis Crítico del Discurso
	5. Inferir las implicancias del discurso legislativo relativo a la gestión estatal del <i>conflicto trans</i> para el escenario socio-político chileno.	-Construcción de ciudadanía -Producción de subjetividad -Tensiones en la estructura sociopolítica	¿Qué implicancias tienen estos discursos para la estructura socio-política?	Nivel interpretativo Análisis Crítico del Discurso

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<sup>2</sup> For more on the procedures and contents of the gender identity law, see the official site of the parliament in Chile:  
<https://www.leychile.cl/Navegar?idNorma=1126480&idParte=&idVersion=2019-12-27>

<sup>3</sup> See Appendix 1: Analytical Dimensions.

<sup>4</sup> For more information and a complete reading of the papers, see:  
[https://diprece.minsal.cl/wrdprss\\_minsal/wp-content/uploads/2015/01/CIRCULAR-34-Atenci%C3%B3n-de-personas-trans.pdf](https://diprece.minsal.cl/wrdprss_minsal/wp-content/uploads/2015/01/CIRCULAR-34-Atenci%C3%B3n-de-personas-trans.pdf), and  
<http://www.movilh.cl/documentacion/CIRCULAR21MINSAL.pdf>