

International Journal of Human Sciences Research

THE HUMAN RIGHTS OF TRANSGENDER OR TRANSSEXUAL PEOPLE AND THEIR ABSENCE IN THE WORKPLACE

Dr. Rodolfo Navarro Bravo

Universidad de Guadalajara

Centro Universitario del Norte

ORCID 0009-0009-9643-1051

All content in this magazine is licensed under a Creative Commons Attribution License. Attribution-Non-Commercial-Non-Derivatives 4.0 International (CC BY-NC-ND 4.0).



Abstract: Transgender or transsexual people have the same labor rights as heterosexuals, however we see that they are excluded from their human rights for the simple fact of having a sexual preference that is different from the rest of the rest. It is important that colleagues and organizations promote inclusion and respect for transgender or transsexual people in the workplace, implementing policies and practices that guarantee the full exercise of their human rights. This will help create more fair, inclusive and respectful work environments for all people.

Keywords: Transgender, transsexual, labor inclusion and human rights

INTRODUCTION

From the moment of birth, every person is assigned their sex, whether male or female, which is linked to the reproductive system or to the physical or biological characteristics with which they are born.

Transgender or transsexual people have historically been condemned to exclusion, presenting difficulty in accessing full citizenship. Criminalization has occurred as a consequence of the segregation to which they have been socially subjected. (Napiarkovski, 2012)

In Mexico, 5 million people (5.1% of the population) self-identified with an LGBTI+ sexual and gender orientation. This, according to the National Survey on Sexual and Gender Diversity (ENDISEG) 2021. 92.4% of those 5 million people (4.6 million) self-identified with an LGB+ sexual orientation (OS) and 18.2% (909 thousand), with a T+ gender identity (GI). Of the total population aged 15 years and over with IG T+, 434.8% (316 thousand) self-identified as transgender or transsexual and 65.2% (592 thousand), with another gender identity. (inegi, 2023)

We know the complexity that transgender or transsexual people have in obtaining a

decent job, since every time they find a source of employment and come to knock on the door of the company to demonstrate that they are in a position to compete for a job vacancy, They face a series of obstacles to being hired, the former due to having a sexual preference different from heterosexuality.

LABOR INCLUSION OF TRANSGENDER OR TRANSSEXUAL PEOPLE AS A HUMAN RIGHT

To address the topic more precisely, it is essential to define some important terms to clearly undertake the topic of this research, which are mentioned below: gender, transgender or transsexual and labor inclusion.

For the World Health Organization (2018) "Gender refers to the roles, characteristics and opportunities defined by society that are considered appropriate for men, women, boys, girls and people with non-binary identities." "

Gender is primarily used to differentiate between men and women, although it can also include other gender identities such as non-binary. Gender can influence roles, behaviors, expectations, and social norms associated with each category. It is important because it is genetically constructed in a social and cultural context, and does not need to be determined by biological sex.

The term "transgender" was first heard in the 1960s and refers to someone who has the same gender identity with which they were born. A transgenic person can identify as a man, a woman, both, or a child of the traditional generation. Some transgender people may choose to undergo gender reassignment, which may involve physical changes with hormones or surgery, as well as social and legal changes to living. according to their new gender identity, going from being transgender to being a transsexual person. It

is important to reconcile the identity of the transgender person and enter their perceived identity.

Likewise, one can speak of transsexuality when people whose gender identity does not coincide with the gender assigned to them at birth. Transgender people may choose to take medical measures such as hormone therapy or gender reassignment surgery to better align their gender identity with their perceived gender by transitioning to transsexuality. It is important to note that transgenderism is a personal experience and that each person has their own unique journey.

When studying human rights, we can consider them to be the innate rights that all people have, regardless of their nationality, race, gender, religion or sexual orientation. These rights are considered universal, inalienable and indivisible, and are protected by international laws and standards. In Mexico, they are protected by the Political Constitution of the United Mexican States, following the constitutional reform of 2011. Some rights enshrined within the Universal Declaration of Human Rights signed at the United Nations include the right to life, non-discrimination, freedom of expression, equality before the law, freedom of religion and the right to a fair trial. These rights are fundamental to guarantee the dignity, equality and freedom of all people.

Now, the labor inclusion of transgender or transsexual people is to guarantee equal opportunities and fair treatment in the workplace within companies for transgender or transsexual people. This implies eliminating within the workplace any discriminatory behavior or procedure based on gender identity or gender expression.

It is of utmost importance that employers, in order to eradicate any discrimination that may arise in the workplace, establish policies and practices that foster an inclusive and

respectful work environment.

To enter into context with the topic of the research, it is important to briefly know the history of one of the first transsexual people in history:

In 1952, a young woman sat down to write a letter to her family. The act itself was nothing extraordinary: Christine Jorgensen was 26 years old and preparing to return to the United States after undergoing some medical procedures in Denmark. But the content of Jorgensen's letter was completely unique. "I've changed a lot," she told her family, attaching some photos of herself. "But I want you to know that I am an extremely happy person. Nature made a mistake, which I have corrected, and now I am her daughter" Jorgensen would arguably become the most famous transgender woman in the world of her time. Her remarkable transition from male soldier to polished, feminine public figure would be a turning point in trans visibility (Blakemore, 2022).

Currently, the lack of awareness, inclusion and diversity policies in companies makes it difficult for transgender or transsexual people to enter a workplace, not only to socialize among the working staff but also to carry out productive activities, thus violating human rights. of this.

The policies that companies must generate need to have the sensitivity required to prevent discrimination and encourage the inclusion of people from the LGBTIQ+ group in the workplace among their workers, so organizations need to put emphasis on their facilities to promote inclusion and equality. of opportunities and improve the full development of the personality of transgender or transsexual people, supporting with these actions respect for human rights.

Nowadays it is complex to fight with conservative society, the transformation that transgender or transsexual people undergo, they have to fight for that aberrant discrimination that they suffer from the

measured community and added to that, with companies that are not yet prepared to hire and accept people who by their own decision decided to have their medical or surgical procedure, choosing the different gender identity with which they were born.

To provide dignified human treatment to trans people within their workplace, collaborative work was carried out in Mexico between Baker McKenzie, Pepsico, Human Rights and the Trans and Non-Binary Gender Business Advisory Council (Human Rights Campaign Foundation, 2023), created for this purpose, as a final product of this work team, the Manual for the Inclusion of Transgender or Transsexual People in Workplaces was launched, whose main objective of the manual mentioned above is to avoid discrimination and support inclusion in the workplaces of transgender or transsexual people.

It is important to know that in several states of the country, their legislation already contemplates the procedure for changing the name of transgender or transsexual people. In the absence of an effective tracking system in the country, it is unknown how many transgender or transsexual people have completed such a procedure, without However, based on the information provided by the National Electoral Institute (INE), there are approximately 13,025 requests to change credentials due to gender and name changes.

For the manual on the inclusion of trans people in the workplace, one of the main objectives is for companies to implement protection policies and defense mechanisms, where safe and inclusive spaces are established, respecting at all times respect, equality, inclusion and Respect for human rights.

The policies established in the workplace must address workers who have had their rights violated or have been discriminated against because of their sexual orientation or gender identity; on the other hand, they must

allow the free expression of their workers about their identity. gender and keep all the information of its employees private, respecting their human rights at all times.

Likewise, companies or employers must generate a code of conduct or ethics that gives rise to the conduct, actions and behaviors that the workers must carry out, establishing an area of defense of the labor and human rights of all workers, including employees. transgender or transsexual.

Now, other activities that must be carried out in work spaces are the administrative processes to be followed by companies according to the Manual for the Inclusion of Transgender or Transsexual People in Work Spaces, ranging from recruitment, hiring, transition within the company.

What must be fulfilled within a recruitment process with employers is that it be adhered to human rights and that the people responsible for carrying out said process are sensitive so that the issuance of vacancy calls has inclusive and non-discriminatory language, being able to attend to all the contestants for the position without indications about their sexual orientations or gender identity.

In the hiring process of a transgender or transsexual person, it is recommended that it be carried out even when the documentation requested for the position is not updated according to their gender identity. It is advisable to dictate some procedure so that the documentation be completed subsequently and avoid discriminatory action in the process.

Once a transgender or transsexual person is hired and over time they decide to undergo the process of gender identity transition or change the documents proving sexual orientation, the employers or directors of the company must show empathy for the person. the times that will allow you to carry out the corresponding procedure, providing at all times the support that is considered

necessary and immediately taking action on the matter and starting the administrative processes required for the new identity or, where appropriate, changing the work identification documents of the transgender worker or transsexual who requires it, because the processes for such a case can usually be delayed and the company employees must be informed and made aware of the new gender identity with which the transgender or transsexual person will manage.

Once the transgender or transsexual person already has their new identity, they are asked to issue a new contract, respecting the seniority and benefits already earned through time working in the company. It is important to respect trans people with their dress code and personality, being able to use the toilets according to their new gender identity.

Within organizations, organizational culture is an issue of utmost importance, because the values, ideologies, interactions, beliefs, habits and practices that organizations take into consideration must be taken into account to have a work environment in accordance with the needs of your employees.

Therefore, it is recommended to carry out a series of actions, with the purpose of measuring the organizational climate of your company, understanding that within it you can find people with different cultures, ideologies, habits, sexual orientation and gender identity living together.

A commitment of companies or workplaces is that they must be constantly working to align their organizational culture with respect for human rights, with a constant link of inclusion and respect for sexual diversity that may be participating in the substantial activities of the organization. organization.

It is important that the business owners or managers of the organization are in constant communication with the employees to know if there is any act of violation of human rights

among them, discrimination or misconduct towards people due to their gender identity, as well as to identify If there is a complaint in process, it must act immediately with a disciplinary measure, immediately improving its organizational culture and ensuring that the results within the organization are successful.

The idea is that employers make the commitment to have an optimal organizational climate, where strategies are developed to be in a position to obtain some certification in matters of human rights issued by the National Council to Prevent Discrimination (Conapred), if it is possible to obtain With this certification, employees would have complete confidence to raise their voices in the event of suffering any discrimination or be prepared to continue seeking employment equality, where discriminatory behaviors towards the organization's workers can be eliminated from the company and are recognized the human rights of transgender or transsexual people.

It is of utmost importance that the ways of representing transgender or transsexual people are known, in the reasoning within the company, as well as in the agendas of managers, company leaders, or the area of human resources, always respecting the human rights of people according to their gender identity, paying for a system of inclusion and socialization for transgender or transsexual people.

Since the constitutional reform in 2011, human rights rise to constitutional rank, where freedom must be respected and human life must be protected, these are inherent to all people who reside in the national territory regardless of their distinction.

Human Rights are included in the Mexican constitution since the reform approved in 2011, these are established as fundamental basic principles. Therefore, the Mexican State is obliged to respect, protect, guarantee and promote in all its organizations and agencies,

under equal circumstances.

Regarding the human rights enshrined in the constitution and in the Universal Declaration of Human Rights promulgated in 1948, as well as the various treaties of which Mexico is a part, it is of great value to highlight those human rights recognized to the transgender or transsexual people, who are:

Right to equality and non-discrimination; Right to legal recognition of gender identity; Right to Work and social security; Right to health; Intimacy and privacy law; Right to free development of personality; and Right to legal recognition of gender identity. (UN, 2023).

Although in Mexico human rights have constitutional status, some secondary legislation may be missing at the federal, state and municipal levels, which can generate some contrary situations so that the human rights of transgender or transsexual people can be fully exercised and respected.

In accordance with the Political Constitution of Mexico, the issuance of legal norms that protect the civil rights of individuals and establish their obligations are within the powers attributed to the federative entities.

In many states of the country, there is still much to do and legislate in terms of adaptation to their state laws to guarantee the rights of transgender or transsexual people, it is known that very few federal entities have made any reform to their state legislation or in their case, promulgate a norm that recognizes the right to self-determination of gender identity, as well as make an adjustment to its civil registry procedures so that transgender or transsexual people can go and ratify their name and sex on the birth certificate, with the aim of legally recognizing the transgender person with the name and sex according to their new gender identity.

Another problem that can arise in

respect for the human rights of transgender or transsexual people is the conservative thoughts, criteria and values of the people who are in charge of administering justice when these rights inherent to them are violated or not respected. all human beings

It is to be recognized that the Supreme Court of Justice of the Nation, resolved through ruling 346/2019 for states to establish administrative procedures so that transgender or transsexual people can proceed with gender reassignment in a more efficient and safe way, without that these people have to go to the jurisdictional authorities to carry out said procedures (HRC, Equidad Mx, 2021).

CONCLUSION

Fighting with society for the acceptance and non-discrimination of transgender or transsexual people in any area of life is difficult due to the deep roots of heterosexuality that has historically dominated the world, starting in 1948 when it is recognized with more legality. their human rights, work has been done so that these people are included and accepted in all areas of their lives, without suffering discrimination and exclusion throughout their lives.

Although with the constitutional reform approved in 2011, where the human rights of Mexicans are already constitutional rank, which must be constantly monitored by institutions created for this and that transgender or transsexual people of any age do not have to suffer discrimination in the workplace where they work and in which the full development of their personality is affected, with discrimination or non-inclusion due to their gender identity or sexual preference.

In labor matters, it is essential that there is ideal communication between employers and administrative workers, to detect in a timely manner any discriminatory behavior towards

a transgender or transsexual colleague, immediately taking action on the matter and applying disciplinary measures to eliminate or eradicate it. racist behavior.

Promoting the labor inclusion of transgender or transsexual people in

workplaces is not only a question of ethics, but it also supports the favorable development of more diverse, inclusive and productive work spaces and generates more optimal development for these people. of his personality.

REFERENCES

Blakemore, E. (2022). Breve repaso de la historia de las personas transgénero. National Geographic. <https://www.nationalgeographic.com/historia/2022/06/breve-repaso-de-la-historia-de-las-personas-transgenero>

Fundación Human Rights Campaign, 2023. Una herramienta para los estudios y las empresas en México. <https://www.hrc.org/resources/inclusi%C3%B3n-de-personas-trans-en-los-centros-de-trabajo>

HRC, Equidad Mx (2021). *Manual de Inclusión de Personas trans en espacios laborales. Una herramienta para los empleadores y las empresas en México*. Human Rights Campaign. <https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&cad=rja&uact=8&ved=2ahUKewiP2aPwnfH4AhU4DkQIHXwgCNkQFnoECACQAQ&url=https%3A%2F%2Finfanciastrans.org%2Fwp-content%2Fuploads%2F2021%2F06%2FManual-inclusion-personas-trans-en-espacios-laborales.pdf&usg=AOvVaw3cNvStgkVEse35uzEJIu9e>

Inegi, (2023). Estadísticas a propósito del Día Internacional del Orgullo LGBTI+. <https://www.inegi.org.mx/app/saladeprensa/noticia.html?id=8272>

Napiarkorvski, Federico (2012). Vulnerabilidad de derechos en personas trans. IV Congreso Internacional de Investigación y Práctica Profesional en Psicología XIX Jornadas de Investigación VIII Encuentro de Investigadores en Psicología del MERCOSUR. Facultad de Psicología - Universidad de Buenos Aires, Buenos Aires.

Organización Mundial de la Salud, (2018). Género y salud. <https://www.who.int/es/news-room/fact-sheets/detail/gender>

Organización de las Naciones Unidas, (2023). La Declaración Universal de los Derechos Humanos. <https://www.un.org/es/about-us/universal-declaration-of-human-rights>