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REVIEW

Gender, transsexuality and labor insertion

Género, transexualidad e inserción laboral

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ABSTRACT

Introduction: transsexuality and employment discrimination have been topics of interest and debate in Argentina. The diversity of gender identities faces stigmatization and social rejection, which negatively impacts employment opportunities and self-esteem of transgender people. This study focuses on analyzing public policies and initiatives to improve the labor market insertion of this group, examining their effectiveness and challenges.
Development: the study highlights the importance of the Gender Identity Law in Argentina, which has been a pioneer in recognizing self-perception of gender identity without medical or judicial requirements. However, despite these inclusive policies, labor discrimination continues to be a reality for many trans people. There is a lack of official data on their employment situation, which hinders the formulation of effective policies. Initiatives such as work cooperatives managed by trans people, which seek to provide alternatives to prostitution, as well as job training programs, are explored. These measures are valuable, but their effective implementation is a challenge.
Conclusions: employment discrimination remains a significant obstacle for trans people in Argentina, despite policies and programs designed to address this issue. The lack of accurate data makes it difficult to evaluate the effectiveness of these policies. To improve the labor market insertion of transgender people, it is necessary to address not only discrimination in the workplace, but also prejudices rooted in society. Education and awareness-raising are key tools in this process. Continued efforts are required to promote gender equality and respect the diversity of gender identities in the workplace in Argentina. This will not only benefit trans people, but will also enrich society as a whole.

Keywords: Trans; Transsexuality; Gender; Work Environment; Labor Market Insertion.

RESUMEN

Introducción: la transexualidad y la discriminación laboral han sido temas de interés y debate en Argentina. La diversidad de identidades de género se enfrenta a estigmatización y rechazo social, lo que impacta negativamente en las oportunidades de empleo y la autoestima de las personas trans. Este estudio se centra en analizar las políticas públicas y las iniciativas para mejorar la inserción laboral de este colectivo, examinando su eficacia y desafíos.
Desarrollo: el estudio resalta la importancia de la Ley de Identidad de Género en Argentina, que ha sido pionera en reconocer la autopercepción de identidad de género sin requisitos médicos o judiciales. Sin embargo, a pesar de estas políticas inclusivas, la discriminación laboral sigue siendo una realidad para muchas personas trans. Se evidencia una falta de datos oficiales sobre su situación laboral, lo que dificulta la formulación de políticas efectivas. Se exploran iniciativas como las cooperativas de trabajo gestionadas por personas trans, que buscan proporcionar alternativas a la prostitución, así como programas de capacitación laboral. Estas medidas son valiosas, pero su implementación efectiva es un desafío.
Conclusiones: la discriminación laboral sigue siendo un obstáculo significativo para las personas trans en Argentina, a pesar de las políticas y programas diseñados para abordar esta problemática. La falta de datos precisos dificulta la evaluación de la efectividad de estas políticas. Para mejorar la inserción laboral de las personas trans, es necesario abordar no solo la discriminación en el lugar de trabajo, sino también los prejuicios arraigados en la sociedad. La educación y la sensibilización son herramientas clave en este proceso. Se requieren esfuerzos continuos para promover la igualdad de género y respetar la diversidad de identidades de género en el ámbito laboral en Argentina. Esto no solo beneficiará a las personas trans, sino que también enriquecerá la sociedad en su conjunto.

Palabras clave: Trans; Transexualidad; Género; Ambiente Laboral; Inserción Laboral.

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INTRODUCTION

The origins of the differences between men and women have been a source of fascination and intense controversy since ancient times and still are. The literature on this subject is abundant and contradictory.[1]

Rubin defines gender as follows: "Gender is a socially imposed division of the sexes. It is a product of social relations of sexuality. Kinship systems are based on marriage; therefore, they transform males and females into "men" and "women," each an incomplete half that can only feel whole when united with the other".[2]

This conceptualization reflects what has been called heteronormativity insofar as it is in line with the production and reproduction of norms about heterosexual masculinity and femininity based on biological sex.

Throughout history, various terms have been used to define people born with a specific sex who do not identify with it and wish to change it. Transsexualism, transgenderism, gender identity disorder, and gender dysphoria are some of the recent concepts used to identify these cases 1.

Lorber has distinguished at least ten different sexual identities in human beings: heterosexual female, heterosexual male, lesbian, male homosexual, bisexual female, bisexual male, transvestite female, transvestite male, transsexual female, and transsexual male.[3]

In order to address the issue of transsexuality in an objective way and not to lead to confusion, it is necessary to say that transsexuality should not be confused with transvestism (being a transvestite, drag queen or drag king), since the latter people use clothes of the opposite sex, but do not reject their body or feel the need to modify it (they do not have conflicts with their sexual identity).[4]

Therefore, we can affirm that transsexuals are not people "disguised" as the other sex, on the contrary, they are people who involve in this change the stability of their social and work/professional life, risk their health and even their life to achieve the desired harmony to which they aspire and seriously compromise their future welfare since we are in a society that is still very intolerant, especially about issues related to sex. Nor should it be confused with homosexuality, although within the collective, heterosexuality predominates for the most part.[4]

Soley-Beltran (2014) states that: "Transsexual people experience a discontinuity between the body parts, identities and sexual pleasures that they believe should be associated with them. The feelings of alienation produced by this dissonance between body parts and gender meanings are often expressed with a platitude that brings into play dichotomous notions of mind and body: 'the mind is female telling you that's wrong.' So because your mind is telling you that it's wrong, you associate that that (your male genitalia) shouldn't be there and that you should have something different. So yes, you look like you're in the wrong body." The cliché "a female/male mind trapped in a male/female body" encapsulates the medical notion of gender identity as residing in the inner 'core' of the person, i.e., gender as a 'true' and immutable essence that is given by nature, residing 'inside' the brain or mind: "(my) mind has always been male" which corresponds to Stoller's notion of 'nuclear gender identity.' In seeking subjective integrity, transsexual and transgender people expose the inner/outer dichotomy as a discursive mechanism: the body is described as an "envelope" (Pamela), "external" (Maria), "alien to my inner psyche".[5]

Transsexuality can be defined as the condition in which a person with apparently normal somatic sexual differentiation is convinced that he or she is a member of the opposite sex.[4]

It should be understood that a person is transsexual simply because his or her gender identity does not match his or her bodily anatomy. Moreover, he or she lives socially by his or her gender. That is, it affects the "gender identity". Many times, the transsexual person does not recognize himself as such until he gets the diagnosis (especially the psychological one). For the transsexual, it is one thing to have a clear sexual and gender identity and quite another thing to recognize him/herself as transsexual.

This word has pejorative social connotations that no one would want for themselves. So it takes some time to assimilate "that one is transsexual".[6]

Socially, the word transsexual or transgender has a negative connotation. Thus, transsexual people are responsible for the destigmatization of these words, demonstrating day by day that the content and meaning that Society attributes to a word can be modified according to the reality to which it is applied.[4]

That is to say, words must adapt to the situation or the person they define, not the person to the definition a word indicates. Transsexual people have to do this internal work of acceptance of their transsexual condition and, through their example -socially and occupationally-demystify the erroneous idea that everyone is and behaves in the same way. There are as many forms of transsexuality as there are transsexual people.[6]

Transsexuality is not the "third sex," but the person "feels" of one sex or another and, in addition, pretends to live day to day with that gender role under the set of norms and prescriptions dictated by Society and Culture, having a masculine or feminine behavior because gender identity is a social and cultural construction, which is experienced as necessary for the psychological and social well-being of all people and therefore, of transsexual people.[6]

To speak of transsexual people and transgender people is, in short, to contrast one social group with another. It points out, identify, and stigmatize a group of people. From the point of view of the social image, this can be associated with the labor activity of prostitution or sex work.[7]

The image does not depend only on the communications and behaviors produced by the collective of transsexual people (their associations try to transmit a positive image and normality) but through the social perceptions (construction of their social image) that the Society has.[7]

To form this negative social image (to identify transsexuality with prostitution and the sexual market; show business), the media have contributed a lot, especially with their television programs, in which female prostitution appears, and therefore, the transsexual (biased or tendentious information).[8]

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From the point of view of the media, it is more notorious to bring up this type of issue -negative for the collective than a person who has a normalized life—tendency to perpetuate the stereotyped image of group.[8]

DEVELOPMENT

Discrimination in the context of transsexuality

Transsexuality is a long-standing phenomenon, but it is currently an essential topic of discussion and remains taboo for many people, who see the transsexual individual as a phenomenon to be cured, rejected, and set aside.[9]

Transsexual people live, perceive, and feel too many situations of exclusion throughout their lives. Our society imposes the internalization of heteronormativity, and any form of different sexual identity means marginalization, exclusion, and rejection of these people, isolation, lack of communication, and rejection in their daily lives, both socially and occupationally.[10]

Discrimination refers to any distinction, exclusion, restriction, preference, or other harmful form of acceptance, based on unreasonable grounds, about a difference.[11]

Many of these people have received insults, threats, and even physical aggressions. Transsexuality, as a social phenomenon nowadays, has taken much strength, and it is evident that despite being a minority, they continue being rejected and socially discriminated against.[9]

These situations of discrimination can lead to loss of self-esteem and insecurity. If they are not supported, first by their families, then by the rest of the citizens, the spiral of insecurity can deepen, lack of self-esteem and self-recognition of these people. There is no respect for the difference nor the reality of many transsexual women and men.[10]

Transphobia, as a social fact, cannot be understood from a causal and unidirectional logic but from the meeting of socio-cultural factors that converge in a determinant way: ideology, education, and religion. The discrimination suffered by transsexual people is feedback in a circular fashion.[12]

It is worth considering that in modern society, the term transsexuality is used as a pejorative with all the negative connotations that this implies, making the transsexual individual a target of discrimination and stigmatization, closely related in a kind of interdependence in which stigma precedes discrimination, in different forms in the family, social, religious, cultural, academic, labor, legal, and even medical spheres. Transsexuality has been conceived as a transgression of the idea that there are only men or women who act and feel as such, questioning the idea of the supposed naturalness of genders, which is far from what the transsexual subject feels or thinks.[9]

Discrimination and stigmatization present a series of particularities concerning transgender people, especially in a society marked by taboos and prejudices.

The attributes of a stigma can be of three types: first, physical deformities; second, properties of character, referring to unnatural practices; and finally, those of race.[13]

In these three types of stigma, the same basis underlies an individual, who could have been readily accepted in an ordinary social exchange, possesses a trait that captures all our attention. In this sense, stigmas related to transgender people would be pigeonholed in the second type since a sexual orientation that dissents from the hetero norm is considered an unnatural passion, a personality defect, and is generally seen as an anomaly of the subject.[13]

According to the above, we practice various types of discrimination, through which, in practice, their possibilities to develop in everyday life are reduced, or it is pointed out that when the stigma is installed, the result is discrimination.

Transsexuality and labor discrimination

In the international context, it is essential to mention the Yogyakarta principles, which state that all human beings are born free and equal in dignity and rights. All human rights are universal, complementary, indivisible, and interdependent. Sexual orientation and gender identity are essential to the dignity and humanity of every person and should not be grounds for discrimination or abuse.[14]

According to the Yogyakarta principles: "Everyone has the right to decent and productive work, to just and favorable conditions, and protection against unemployment, without discrimination based on sexual orientation or gender identity.

States shall: Shall take all necessary legislative, administrative, and other measures to eliminate and prohibit discrimination based on sexual orientation and gender identity in public and private employment, including vocational training, hiring, promotion, dismissal, working conditions, and remuneration;

Eliminate any discrimination based on sexual orientation or gender identity in order to ensure equal employment and advancement opportunities in all areas of public service, including all levels of government service and employment in public functions, including service in the police and armed forces, and provide appropriate training and awareness programs in order to counteract discriminatory attitudes".[15]

The Argentine State sanctioned in 2012 the national law 26.743 on Gender Identity. This law was a world pioneer in recognizing self-perceived identity without requiring psychiatric diagnoses or judicial authorization.

According to Aristegui, Radusky, Zalazar, Romero, Schwartz, and Sued (2017), the law generated perceptions of positive change and empowerment among trans women regarding access to health services and education. However, barriers to full implementation and the persistence of stigma and discrimination were also found. The transgender population in Latin America and the Caribbean in general and Argentina, in particular, is in a critical situation regarding access to economic, social, and cultural rights due to obstacles related to discrimination based on gender identity and its expression.[16]

Recent research shows that 88 % of trans women surveyed have never had a formal job, while among trans men3, the figure

drops to 52 %.[17]

According to data available from civil society organizations, it is estimated that the life expectancy of trans women in Argentina is 35-40 years and that more than 70% use prostitution as a means of subsistence.[18]

Meanwhile, according to a study conducted in 2012 in La Matanza, province of Buenos Aires, by the National Institute of Statistics and Census in conjunction with the National Institute against Discrimination, Xenophobia, and Racism, 85,3 % of the trans women surveyed were or had been in prostitution, 72,2 % were in search of another source of income and 82,1 % perceived that this search was made difficult by their gender identity. In addition, only 14,8 % of the total sample (N=216) reported having completed their secondary education, and 83 % reported having suffered discriminatory acts by the police.

Labor market insertion in trans people

Authors such as Azañon et al. (2019) and Candia et al. (2020) make a significant contribution and design a guide to accompany transition processes within companies correctly. Transition is a complex process and requires environments of inclusiveness and respect for diversity; in this framework, the authors propose the need for companies to generate awareness and training processes so that the people who work within them know about trans realities since a large part of the population ignores these realities, which can generate prejudices.[19,20]

Trans persons should be seen as any other person, and the most important thing that the authors emphasize is that they should be measured under the same objective standards according to their work capabilities regardless of their gender expression or identity, respecting their privacy.[21]

The above is very important when the person is already working within a company. However, it is necessary to provide all the guarantees from previous processes; it is stated that most trans women experience discrimination even from job interviews, which is a disincentive to attend future searches and participate in selection processes.[21]

Hence, the importance companies being prepared on trans issues to ensure that the interview and selection processes are prosperous and inclusive experiences so that even if the trans person is not hired for the position for which he/she applied, he/she does not give up looking for other opportunities for fear of being discriminated against.[22]

Alegre et al. (2017) and Ortega (2018) propose that participation and incorporation of trans people in work teams are essential to promote integration with colleagues and give visibility to the "trans voice," referring to the fact that their opinion will be essential and taken into account.

On the other hand, these authors emphasize that it is necessary to implement strategies to compensate for the barriers preventing trans participation in employment actions. Some examples of these strategies are promoting actions and economic support to trans people such as scholarships, incentives, subsidies, etc., offering economic incentives to those companies that hire trans people to their staff, such as tax exemptions, tax reductions, or others; designing practices focused on improving the problems of personal self-esteem about employment; encouraging the creation of work and occupational life projects; providing empowerment tools.[17,18]

Betancur Múnera & Gómez Amaya (2015) reflect that it is from the recognition of trans identities that these people become employable and stop being seen as a stereotype. It also mentions social capital (family, friends, peers, teachers) as a basis for entry into the labor market, highlighting that the family is the basis for identifying a transsexual woman. There is a foundation in the recognition and opportunities for growth and professional development.[23]

Currently, certain private companies of transnational capital with subsidiaries in Argentina have begun to incorporate transgender people among their personnel, but this does not have a substantial impact on the rates of activity and formal employment. In addition, most of these companies do not apply these policies due to local decision-making but as directives proposed by the parent companies, generally based in the United States or Europe, which must be implemented in all the company's offices.

Regarding the incorporation and hiring of trans persons in formal jobs, it is worth remembering Article 16 of the National Constitution, which establishes that: "All its inhabitants are equal before the law, and are eligible for employment without any other condition than suitability" (Law 24.430).[24]

In this sense, in addition to the specific regulation of rights for the trans community, it would be necessary to work with trans people so that they can get a formal job based on their suitability and skills, and not just because they are trans, which would be a discriminatory measure that would tend to reproduce the subordination of this group.

Public policies for trans labor insertion in Argentina

Since the emergence of the first organizations that brought together trans people in the 1990s, this collective has gained increasing visibility due to the struggle to conquer their demands.[18]

In May 2012, the National Gender Identity Law was passed. It was considered an exemplary regulation on a global scale due to its depathologizing understanding of trans identities, as it does not require any medical, psychiatric, or psychological diagnosis or treatment, nor any judicial authorization whatsoever.

However, in the specific field of labor, the following public labor policies can be mentioned:

- In 2007, Lohana Berkins founded the textile cooperative "Nadia Echazú" by donating five sewing machines by the Ministry of Social Development through the program "Ayudas Urgentes." The National Institute of Associativism and Social Economy provided a subsidy to buy the house where the headquarters are located, and another subsidy was granted by the Secretariat of Employment of the National Ministry of Labor, Employment and Social Security (from now on MTEySS) for the refurbishment and construction of the workshop. This was the first enterprise worldwide founded and managed by and for transvestite/trans population as an alternative to prostitution, and it also served as a model for the creation of other trans

cooperatives in the Buenos Aires metropolitan area.[25,26]

- In 2013, the MTEySS issued Resolution 331/2013, by which trans people were incorporated into different employment programs, namely: Youth with More and Better Work Program, the PROGRESAR, and the non-contributory Training and Employment Insurance (MTEySS and UNDP, 2017). Among the grounds for such measure, it is highlighted that "the majority [of the trans population] lives in extreme poverty, has a low level of educational instruction and training for employment and has poor access to health institutions, all a product of the weight of discrimination and social stigma that also forces a vast majority to the exercise of prostitution as the main means of subsistence." (Resolution 331/2013) Through this resolution, the Ministry assumes the role of mediator between the labor market and trans workers for two years to provide them with tools to improve their employability through different benefits: Educational Completion, Labor Orientation Workshops, Vocational Training, Job Training, Individual and Associative Productive Enterprises, and the Salaried Labor Insertion Program. However, the high participation of the transgender population in the training programs offered by the Training and Employment Insurance does not translate into effective labor insertion, with few cases of hiring by the private sector. The insertion of the transgender collective in private companies constitutes the current challenge to promote access to formal employment.[17]
- The labor quota law for transvestites, transsexuals, and transgender people approved in 2015 in the province of Buenos Aires is another remarkable and pioneering public policy regarding the possibilities of access to formal employment for the trans population. It governs the public administration of the province and establishes that 1 % of public positions must be held by trans people who meet the suitability conditions for the position. This 1 % percentage would represent more than 4 500 jobs. However, its regulation by the Executive Power of the Province of Buenos Aires is still pending. There are also other initiatives to establish a trans labor quota of between 1 and 3 % in the government bodies of the State at different levels: municipal, provincial, and ministerial. In addition, establishing such quota in the companies supplying the State as a requirement for their public bidding is sought to be promoted.[17]

An essential aspect of analyzing the scope of public labor policies is the lack of official data on the situation of trans people regarding access to work since most of the existing research on this population covers the areas of health and education:

"The great difficulty encountered in these processes of struggle to conquer the recognition of self-perceived gender identity is that there are few official statistics regarding the situation faced by the trans population in general: the few available are usually linked to health issues, more specifically HIV and other STIs. Moreover, until a few years ago, the population of trans women was included without any distinction among the so-called "MSM" (men who have sex with men) and trans men were a directly ignored or unknown group".[27]

Along the same line, in the MTEySS, there is no official data on the labor situation of the LGBT collective as a pending debt in the context after the sanctioning of the laws on equal marriage and gender identity.[18]

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