



Gender identity and recognition: the registration of the social name in the academic environment

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Dirce Nazaré de Andrade Ferreira

Ph.D. in Law from FDV. Ph.D. in History from UFES, Professor at UFES, Department of Administration

Carlos Alberto Butkovsky Júnior

Administrator. Federal Public Servant. Master's in Public Management from UFES

ABSTRACT

This is an interdisciplinary research, in progress, which aims to understand the intricacies of the attribution of the social name to transgender students. It studies the administrative dynamics of CEPE/UFES Resolution No. 23/2014 and how policies have been promoted to ensure the exercise of this right. It intends to investigate the dynamics used by the University to ensure the effectiveness of the use of the social name in the scope of academic life; aims to verify the existence (or not) of guidance for students regarding the use of this right; and how the student with a social name has perceived respect for his identity. The research method to be used is phenomenology along with field research, qualitative, and documentary at UFES. The instrument for access to data will be face-to-face interviews with transgender students, to know their experiences regarding the recognition of their gender identity in academic life, to anchor their narratives, and bring to the fore situations, which can serve as a basis for an institutional strategy of policies aiming to crystallize a culture of respect and recognition of gender identity in the academic community researched.

Keywords: social name, gender identity, recognition.

1 INTRODUCTION

1.1 PRESENTATION

Sexuality is a theme that involves myths and taboos, which makes the subject become little explored and clarified due to the reason of rhythmic social stereotypes, which in turn establish standards based on paradigms. In traditional Western logic, for example, the idea of gender functions as a binary division, that is, in two opposites: male x female, male x female, or man x woman.

From this point of view, the human being is born endowed with certain biological characteristics that frame him as a male or female individual, and this criterion is biologically defined, that is, based on the genitalia and hormones with which the person is born.

In addition to serving as a mechanism of social pattern, paradigms also try to justify inequalities between men and women and manifest themselves with greater intensity when society is faced with people who flee this established cleavage. This is the case of subjects named in the literature of transgender (transsexuals and transvestites), conceptualized as those people who do not recognize their biological body because they understand that it does not correspond to their gender identity.

This theme has been the subject of intense discussions in the current political and social situation in Brazil, which has caused profuse suffering to the citizens who are part of this group. It should be



highlighted that these supported discomforts concern both the pains of psychic or inner nature, as well as the physical external suffering itself, that is, all sorts of corporeal violence experienced by the subjects, due to prejudices.

According to Prado and Machado (2012, p. 67), prejudice can be understood as one of the mechanisms for maintaining a hierarchy between social groups and especially gender, from the perspective of legitimizing the interiorization of the subjects.

Thus, there is a dichotomized view among those who recognize themselves as exercising biological sexuality aligned with identity and transgender. It is possible to highlight that this dyad often generates discrimination and is consolidated as violence and hate speech of those on them.

However, it is due to ignorance about the subject now addressed that the ideological conflicts of various theories arise and nourish themselves with social mechanisms to legitimize the interiorization of these social groups. Hostility manifests itself both in extreme cases of violence, as well as in disguise of force and silence on the part of transphobes who express aversion to the manifestation of transsexuality. Moreover, there is rejection on the part of those – the homophobes – who incorrectly do not distinguish the differences between some important concepts, such as gender identity, and sexual orientation. Refuting any form of labeling or taxonomy, we can state that there is in the two formulations mentioned above, a subtle difference, which concerns the way subjects live with their own identity, and how they closely relate effectively and sexually.

For a better understanding, it is highlighted that gender identity, according to Geledés (2016) is a feeling, an affection of the subject for himself, with his body, and with the externalization of his phenotype, or even, appreciation for the condition with which the person identifies. There are cases, in which gender identity is in dissonance, fragmented with the physical body or phenotype, so that the subject manifests his exterior differently from the biological sex, in the categories of transvestites, transsexuals, and transgenders. In these cases, gender identity experiences a duality, since the subjects understand that their body is not appropriate to the way they think and feel, that is, their gender identity is opposed to their biological sex.

Sexual affective orientation, on the other hand, is affecting not the intimate forum or self-perception, but the way the subject relates to the other, with the way of exercising and experiencing his affections and sexuality. And in fact, sexual affective orientation is understood as the sex that the individual elects as his object of desire and affection. Thus, it is possible to find the categories of homosexual, bisexual, and heterosexual subjects among others.

Therefore, it is often because he does not understand the subtlety of the concepts, nor exercise empathy with these people and their affection, that prejudice germinates and spreads in society. To address these prejudiced manifestations, lesbian, gay, bisexual, and trans (LGBT) society over decades of struggles has been concising rights.

It is possible to give as an example of these gender policies, the recent knowledge of civil union between homoaffective couples, by the Supreme Court, on May 5, 2011; the approval of homoaffective



marriage, in the State of Espírito Santo, by the Court of Justice, on September 21, 2012; the right to the adoption of children for homoaffective couples, just to do so, only seek the Court of Childhood and Youth and meet the criteria of specific legislation.

Moreover, the use of the social name – the nuclear theme of this work – although not yet recognized in the Civil Code and the Constitution, has been guaranteed in some instances. Within the Scope of the SUS, for example, Ordinance MS 1820, of August 13, 2009, concerns the theme when it provides for the rights and duties of users of the Unified Health System - SUS. As for the area of education, one example is Ordinance No. 1,612 of November 18, 2011, of the Ministry of Education, which allowed the use of the social name in the school environment.

About the subjects and the recognition of their rights, the use of the social name by transgender people stands out, a caner interdisciplinary theme, which touches both civil and constitutional law and also makes approximations with other fields of science, such as psychology and sociology, because the theme involves the identity of the subjects. The social name concerns the use of a self-attributed civil denomination by the person, which is most often different from that name entered in the birth record. It is also important to highlight that the social name, in large part, differs not only from the registered name but also from the person's phenotype.

Therefore, the social name is the civil qualification or denomination by which trans and transvestite people prefer to be called daily, in contrast to the civil name formalized on their birth certificate. This is because, these subjects of law understand that there is a physical stereotype that, in most cases, is in disagreement with the personality of the natural person, that is, the name formalized on the certificate does not reflect their gender identity.

A complex theme and still under construction in organizations, the social name is a right that emerges in society and lacks better exploration, given the burden of prejudice that involves the theme. Therefore, there are many studies on gender, among them stand out the work of Maria Beatriz Nader (2015), Marco Aurélio Máximo Prado and Frederico Viana Machado (2012), and Tomaz Tadeu da Silva (2014) but about the social name and the way it is dealt with in organizations, little research has been carried out. It is understood that this theme deserves a closer look, in the expectation of contributing to the debate on the subject.

That said, the purpose of this work is to research within the Federal University of Espírito Santo how policies have been promoted to ensure the exercise of this right to students who come to demand it. In this sense, this excerpt aims to focus on the following inconvenient situations involving the study theme.

1.2 THE PROBLEM AND ITS RELEVANCE

When one thinks of identity or civil personality, it is said that there are phenotypes or means of externalization of a person's gender. Phenotype means the set of characters or physical appearance demonstrated by a person in his or her social environment.



However, when it comes to the issue of gender, concerning homosexuality (transsexuality) most often there can be a difference between the stereotype or set of information externalized in the person's body identity; and the formal documents of your identification such as - birth certificate, identity card, work card, diplomas, etc. That is, there may be a lack of harmony, between the externalized image and genotype, meaning that it, is in a misstep with this, or even the image that the subject builds of himself, does not agree with his biological gender. There is, therefore, disharmony between the perceived and the real.

This fragmentation between the externalized and the formalized causes intense suffering in the subject due to the non-recognition of his identity in the experience of his daily life, because according to Torres (2010, p.11) "the ways of expressing sexuality are related to people's life history".

In addition to this conflict of an intimate nature, transgender subjects also face daily prejudice and social hostility from certain groups that consider them a rejected minority. Certain ideologies - such as those of a more conservative religious nature, for example - impose cruel spiritual sanctions, when not physical, to those who do not fit their dogmatic patterns, aggravating this suffering to the point of leading people to suicide when they no longer endure such oppression.

In the context of sexuality, social prejudice has been producing the invisibility of certain groups, denying them some of their social rights, and in turn legitimizing practices to interiorize and socially share their identity. According to Prado and Machado (2012), homophobia is a set of actions denying the rights of these subjects.

Contrary to intolerance, the federal government launched the 2004 Brazil Without Homophobia Program intending to promote the citizenship and human rights of lesbians, gays, bisexuals, transvestites, and transsexuals based on the equalization of rights. In the document formulated, the principles of the Program, the Action Program, and its implementation were established. This is why, " the [...] homogeneity is no longer so easily imposed, even with the sophisticated mechanisms of exclusion and repression that persist in management practices" (UN, 2014, p.11).

That said, society has produced, even timidly, some protective mechanisms. On January 16, 2015, the National Council to Combat Discrimination and Promotions of Lesbian, Gay, Transvestite, and Transsexual Rights – CNCD/LGBT issued Resolution No. 12 that establishes parameters for ensuring the conditions of access and permanence of transvestite and transsexual people in education systems and institutions, formulating guidelines on the institutional recognition of gender identity and its operationalization. In this same sense, public agencies through normative instruments have regulated the use of the social name within their spaces. This is the case of the Federal University of Espírito Santo, the object of this study.

Therefore, we point out the fundamental questions of the investigation in this research, in an attempt to understand the following phenomena:

- What money is used to ensure the effectiveness of the use of the social name in the community's area?
- Is there guidance for students regarding the use of this right?



- How has the student who uses this prerogative perceived respect for his identity?

Based on the questions addressed above, the research aims to achieve the following scope:

1.3 OBJECTIVES (GENERAL AND SPECIFIC)

- Analyze the administrative dynamics for registering the social name;
- Verify whether the actions of attribution of the social name involve administrative attitudes regarding the recognition of the student's rights and condition;
- Research whether the right to the social name has been promoted as a policy of respect for the identity of the student.

1.4 JUSTIFICATION

In this context, the interest in the theme of the use of the social name is due to being a theme of high social relevance and very recent, therefore, little studied and explored.

The other two determining factors for initiating this study involve justifications of a personal nature and social aspects. And in this aspect, here an option was made to write the work in the first person of the singular: this or that, as far as the individual perspective is, I justify the work in the thematic present, due to the training in Business Administration with emphasis on Human Resources.

In this area, tasks are performed related to people, and subjects with stories and experiences rich in both resilience and cruel prejudices. These are almost always linked to the ignorance of the theme and especially to the disregard for the suffering involved in the historicity of the subjects who experience discrimination.

As for the social justification, here it is understood that the theme is tiresome, still involved in nebulous observations, and with a load of assessments not always respectful. Where more substantial information and data are lacking, pre-trials are left loaded with hostilities that can undermine the exercise of the right of those involved. Therefore, the work transcends the walls of the academy, in the perspective of throwing light on such an important and so little studied subject.

I note here the relevance of this contribution in a much broader context, outside the limits of UFES, in which the dissemination of knowledge to society may also present positive signs to minimize the gap of studies on the subject, in the effort of mitigating problems related to prejudice. Given the above this work will focus on the following hypothetical impressions:

- the attribution of the social name is a little-known task, both by students, as well as by teachers and servants;
- there is discomfort when it comes to the theme of "social name" in the gym;
- the servants of the Pro-Rectorate of Graduation do not know the dynamics of the registration of the social name and treat the student with perplexity
- the attribution of the social name by UFES is important because it is a struggle for recognition of rights;



- the social name is made as a resurgence to prejudice because outside the limits of UFES there is no recognition of this institute.

2 RESEARCH METHODOLOGY

The present research is social and used scientific methods that allowed the acquisition of new knowledge in the field of social reality. The social reality can be understood here, according to Gil (2008): "In its very broad sense, involving all its aspects related to man in his multiple relationships with other men and social institutions". (p. 26).

Minayo (1994, p.14), reports that,

[...] it is not only the researcher who gives meaning to his intellectual work, but human beings, groups, and societies give meaning and intentionality to his actions and their constructions, the level of historical consciousness in Social Sciences is referenced to the level of social historical consciousness. (1994, p. 14).

That said, this work will have to support the whole phenomenological method. As for the taxonomy of the research, the support will be given by the *intelecção de Vergara (2006)*, for whom the researches are classified in terms of purposes, the means, and the analysis of the results. As for the purposes, explanatory research will be elaborated, which aims to determine the factors responsible or that contribute to the clarification of the phenomena studied. Regarding the analysis of the results, we opted for qualitative research, still under construction, conducted with interviews with ufes students.

Moreover, the qualitative aspect allows the evaluation of the data subjectively, considering narratives, historicity, and memories of the subjects. This is because the purpose of this research is to verify whether the actions of attribution of the social name involve administrative attitudes of respect for the recognition of the right and condition of the student, facts that involve hearing reports. Therefore, given these categorizations, the qualitative aspect is more indicated for data analysis.

It is worth mentioning that science is recursive, because, in addition to making an exploratory bibliographic review on the theme that seeks to find a theoretical foundation in similar and/or complementary research, this dissertation aims to generate new knowledge that can uncover the theme of social name, throwing lights on it and allowing other studies to continue the study. The means used to aim, mainly, to provide a broad understanding of the subject, and to expose the theme studied with simplicity, so that it is accessible to all interested parties.

The research will also have an exploratory nature, since the theme required contact with a new event and with few previous studies, hence we justify the choice of exploratory research because according to Santos (2007) this modality houses research that typically makes the first approximation of studies of a theme, aiming to create greater familiarity about a fact, phenomenon or process involved in this theme.

This "greater familiarity" (our griffins) is sought through the collection of information that allows the researcher to be informed of the real importance of the problem, or the stage in which the consequences



of this problem are found, to raise new possibilities of causes of this problem. Therefore, exploratory research needs the support of bibliographic surveys, interviews with subjects involved, visits, etc. Santos (2011, p. 57) states that "exploratory research aims to provide greater familiarity with the problem, to make it more explicit or to constitute hypotheses".

Thus, the research will be carried out at the Pro-Rectorate of Undergraduate Teaching, the body responsible for the registration of students' data, generated during their stay in the academy. Prograd has a department called "Academic Registration and Control (DRCA), which in turn is divided into two divisions: the internship sector and the academic monitoring division. Therefore, it is in this space of bookkeeping of academic life that the research will develop, without, however, having the intention of exhausting the theme. This is because the research will be subject to the limitation of the information available in the scope of the study to the possible limitation of the specific bibliography, specifically taking into account the use of the social name by transgender people, since the social name is the civil qualification or name by which trans and transvestite people prefer to be called daily, in contrast to the civil name formalized on their birth certificate.

This work will contribute to observing whether the transsexual students, principals, and attendants of the ticket counters and other prograd employees are being respected and respecting the right to the social name of the students. That said, we began to highlight the importance of the name for the subjects.

3 NAME: A RIGHT OF PERSONALITY

The term civil name is how legally means is refunded to the name given to the individual, being also one of the Fundamental Rights of the citizen from his birth, and which integrates the individual throughout his life and continues to identify him even after his death. It is the identification of the natural person and the main element of individualization of men and women, having not only legal importance but mainly psychological being the basis for the construction of their personality (COELHO, 2003, p.184)

Of relevant importance in the legal world, the name is a right of personality that has its protection rooted in Brazilian constitutional norms. It is the way of individualizing the person before the Estado and society, and the right of each person to defend his identity as well as all the rights emanating from him.

In this sense, (FRANÇA, 1988) asserts that the rights of personality concern the legal faculties whose objects are the various aspects of the subject's person, as well as his essential projection in the outside world. In Brazilian law, the name consists, in general, of two elements called first name and surname according to Law 10.406, of January 10, 2002: "Everyone is entitled to the name, understood by the first name and surname" (BRASIL, Law 10.406, 2002, art. 16).

Thus, the first name is the first part of the person's name, individualizing and differentiating its bearer, and the choice of it is an act performed by the imposition of others, usually from the parents, and in particular, cases can be defined by the person himself.



Also, an integral part of the name, the surname, whose purpose is to indicate to which family tree the individual belongs, is a family nickname, that is, a denomination inherited from the ancestors that have among other objectives to identify the patronymic lineage. Moreover, the surname opens doors to give knowledge of our distant ancestors, and also to demonstrate the history of the person.

Thus, the surname is what identifies the individual within the family nucleus, being freely chosen by the parents, and the surname - which identifies the family - is composed using one or more expressions of their surnames (COELHO, 2003, p.184), thus constituting one of the personal rights of the subject.

This is because civil personality is a creation of the law for the individual to be considered a person and, therefore, have rights and obligations. This attribute begins before birth with life, a fact that can be proven through breathing. Therefore, para the right, to be born means to breathe, and therefore. to have rights, among them, to the name inscribed on your birth certificate, so art. 2 of the Brazilian Civil Code provides that "The civil personality of the person begins from birth with life; but the law makes safe, from conception, the rights of the unborn child."

3.1 THE SOCIAL NAME AS RECOGNITION OF IDENTITY

It is clear the importance of the name for the identification of people, being an essential condition for the exercise of the acts of civil life. Not giving the human being possible to be named and be called by others according to their understanding of themselves is to serve fundamental rights, deny the exercise of their citizenship and stimulate intolerance, prejudice, and violence in its most diverse forms.

In this sense, the social name, although with limitations in the legal field, is an instrument capable of asserting the recognition of the identity of transgender people. Thus, several institutes defend the use of the free choice name of the subjects, we highlight here the reflection exercised by the United Nations, which generated plenty of material on the theme, emphasizing that "[...] and the social name is the one by which transvestites and transsexuals recognize themselves, as well as are identified by their community and in their social environment.

Therefore, the social name is the name by which subjects prefer to be called daily, in contrast to the officially registered name that does not reflect their gender identity." (UN, 2014, p. 24). The act of adopting a divergent name for the birth certificate has been recognized in the State and in the other organizations that integrate it.

4 FINAL CONSIDERATIONS

Emphasizing that the research is still ongoing and that the subjects have not yet been heard, here without fear of common sense or hasty opinions, there is no way to fail to consider the view of Brazilian society as aversive and prejudiced to homosexuality, intensified mainly to transsexuals.

Galileo Magazine (Nov.15 p.52), based on data from the NGO *Trans Gender Europe*, reported that Brazil is one of the most violent countries for trans people. A total of 1,731 trans were murdered between



2008/2015. In Latin America a total of 60%, 1,350 murders. In Brazil alone, there were 689, a sad statistic for an emerging country.

BITTAR (1995) reports that "the rights recognized to the human person taken in itself and its projections in society, are provided in the legal system exactly for the defense of inborn values in men, such as life, physical hygiene, intimacy, honor, intellectuality, and many others. In this sense, social movements to protect LGBT rights act in the implementation of public policies aimed, among others, at the protection of the rights of transgender citizens, including the social name.

Thus, the Institute of Social Name, because it is something recently regulated in UFES, makes itself known and lets itself be researched in the face of the high degree of relevance that surrounds the theme. With the research still under construction, and with the prospect of completion in 2017, we emphasize that the administrative dynamics implemented, will be of fundamental importance to verify whether such regulation, as well as its application, has ensured the recognition of gender identity in the spaces of this University.



REFERENCES

- BEVILACQUA, Clóvis. Código Civil dos Estados Unidos do Brasil Comentado. Rio de Janeiro, 1927.
- (BITTAR, Carlos Alberto. Os Direitos da Personalidade. 2.a ed. Rio de Janeiro: Forense Universitária, 1995, pag. 01.)
- CERVO, A L., BERVIAN, P. A. Metodologia Científica. São Paulo: Prentice Hall, 2006.
- DINIZ, Maria Helena. Curso de direito civil brasileiro. São Paulo: Saraiva, 2010.
- _____. Novo Código Civil Comentado. Coordenação Ricardo Fiúza. São Paulo: Saraiva 2002.
- Fernandes Novaes Hironaka, Giselda Maria. Direito Civil (Vol. 7): Direito de Família. Ed. Revista Dos Tribunais, 2008
- (GALILEU. Gênero tudo que você sabe está errado. Editora Globo Novembro 2015. P. 44-53, RJ.)
- GIL, Antonio Carlos. Como elaborar projetos de pesquisa São Paulo: Atlas, 2002.
- _____. Métodos e técnicas de pesquisa social. São Paulo: Atlas, 2008.
- GONZALEZ REY, F. L. Pesquisa qualitativa em Psicologia: caminhos e desafios. São Paulo: Thomson, 2002.
- LAKATOS, E. M.; MARCONI, M. A. Fundamentos de metodologia científica. 3. ed., São Paulo: Atlas, 1991.
- LAKATOS, Eva Maria; MARCONI, Marina de Andrade. Fundamentos de metodologia Científica. São Paulo: Editora Atlas, 2003.
- LAVILLE, C. DIONNE, J. A construção do saber: manual de metodologia da pesquisa em ciências humanas. Porto Alegre: Artmed, 1999.
- MINAYO, M. C. de S.; DESLANDES, S. F.; GOMES, R. Pesquisa Social: teoria método e criatividade. 27ª ed. Petrópolis: Vozes, 2008.
- MINAYO, M. C. S. O desafio do conhecimento. Pesquisa qualitativa em saúde. São Paulo: Hucitec/ABRASCO, 1993.
- PRADO, Marco Aurélio Máximo; MACHADO, Frederico Viana. Preconceito contra Homossexualidades: a hierarquia da invisibilidade. 2ª ed. São Paulo: Cortez, 2012.
- PEREIRA, Caio Mário da Silva. Instituições de Direito Civil, vol. 1. 19ª edição, Rio de Janeiro: Forense, 2000.
- SAUL, A.M. Avaliação emancipatória, Desafio à Teoria e a Prática de Avaliação e Reformulação do Currículo. São Paulo: Cortez Autores Associados, 1988.
- SERPA LOPES. Tratado dos Registros Públicos. 4ª ed. Rio de Janeiro: Freitas Bastos, 1960.



TELLES JR, Godofredo. Iniciação na Ciência do Direito. 4ª edição, revista e atualizada, Ed. Saraiva 2008

TRUJILLO FERRARI, Alfonso. Metodologia da Ciência. Rio de Janeiro: Editora Kennedy, 1974.

VENOSA, Sílvio de Salvo. Direito Civil, Parte Geral. 4ª ed., São Paulo: Atlas, 2004.

VERGARA, S. C. Projetos e relatórios de pesquisa em administração. 3. ed. São Paulo: Atlas, 2000