

SOCIAL NAME: IDENTITY ASSURANCE AND DIGNITY

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SUMMARY

In Brazil there is, so far, no federal law that regulates and ensures citizens the use of the Social Name by transvestites and transsexuals. There is also no law that allows the change of the registered pre-name, in a simple, agile and easy way. Thus, many organs of government have tried to create stratagems for the Social Name to be recognized and incorporated into their routines aiming, therefore, to ensure respectability and permanence of these students in higher education institutions. This work is intended to discuss the concept of the Social Name and present some institutions in Brazil that have adopted this strategy as a way of recognizing the identity of a group of citizens historically marginalized by society.

KEYWORDS

Social Name; Transsexual; Transvestite; Identity; Recognized.

Introduction

Respect is something essential to the exercise of citizenship. Respect for others is undoubtedly a way to respect yourself. So to ensure respect and dignity to others, it is nothing more than to ensure their own freedom of choice, consent, of action and of existence itself.

Resolution 12 of January 16, 2015 the Secretariat for Human Rights of the Presidency of the Republic,

establishes parameters to guarantee the conditions of access and permanence of transvestites and transsexuals - and all those who have their gender identity not recognized in different social spaces – at the systems and educational institutions, formulating guidelines on the institutional recognition of gender identity and its operationalization. (BRAZIL, 2015, p. 01)

The use of the Social Name does not constitute in itself an aim but is a part of a strategy for the recognition of identity (in the gender dimension) of a social group historically marginalized. Recognition of the identity of transvestites and transgender people, among others, begins undoubtedly through the recognition of the name with which they recognize themselves but does not end there.

Recognition of this individual, indeed, demands to recognize gender identity in its full form, respecting it whenever the gender dimension is expressed in interpersonal relation-

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ships, as at the organization of collective space uses, at administrative procedures, at management, at curriculum and at pedagogical practices. (BRAZIL, 2015, p.01)

Therefore, ensuring that the right to those citizens not only guarantees that there is a fight against prejudice and discrimination that affects transvestites and transsexuals, but it also ensures gender identity in the school space. It ensures an affirmative public policy of equal rights of those individuals who often do not have the right to use even the school bathroom for not being accepted as they are.

Social Name

Every natural person with a personality has the right to have a name that appears on birth registration, in accordance with Article 16 of the Civil Code:

Art. 16. Everyone has the right to the name, it covers the given name and surname. (BRAZIL, 2002, s.p.)

Thus, it is possible to set the civil name as the one that contains the first name and last name, one that all individuals have the right to own. This civil name has two aspects: a private one, which is a person's right to have it and defend it, and the right to be recognized and called by that name; and a public aspect, which deals with the individual in his public life, that is about the necessity and the obligation to use his name when signing agreements and similar activities, as the name in this case is the identification of the subject.

Therefore, it can be concluded that the functions of a civil name is to identify and individualize a natural person. It should be noted that such individualization should be understood as to individualize the natural person within social groups the person attends or participates, such as family, school, thus reducing considerably the possibility of homonymity. (RODRIGUES, 2013 s.p.). The civil name until the middle of last century, was able to identify people with their respective genders.

Concerning the Social Name, the same author conceptualizes:

The Social Name can be defined as a civil name that did not adhere to the personality of the natural person, so it is the first name that is used publicly distinct from the legal name of the bearer. It is allowed for transsexuals and, in some cases, in school life, when, for example, a student does not want to be called by his/her legal name. Thereby the Social Name differs from the nickname, because if it were the same, in almost all acts of the life, it would be allowed to all individuals to be called by his nickname, with the highest distinction the lack of adherence of the civil name to the personality of the natural person - more accepted example: transsexuals in which the fact of being called by his civil name causes embarrassment and notoriously constant exposure to ridicule, as the civil name is not a natural person. Clearly the use of a different first name from the legal name in society weakens the civil name use for obligation, but in such cases gives precedence of personality and respect for those, for obvious reasons, who want to be called in a different way from their civil name.

Therefore, the use of the Social Name is a guarantee of respect for the person dignity since use it reflects how the person sees himself/herself, as he/she want be recognized and treated in social living environments.

The school, as a social space that it is, must face the Social Name as a legal necessity in compliance regarding the recognition and identification of the subject. With such needs, many universities have changed their academic records to meet this pressing need.

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Concerns about the sexualities, homosexualities and gender identities and expressions are also not new at school. However, in Brazil, only from the second half of the 1980s, they began to be discussed openly within different social spaces - including school and university (especially in postgraduate programs from which were constituted Studies and Research Centers about Gender and Studies Gays and Lesbians area) (BRAZIL 2007, p. 12).

According to the opinion No. 01 of January 16, 2015, in a conducted survey in the first half of 2014, 20 Federal Universities, 05 State Universities, 06 Federal Institutes of Science Education and Technology were identified that already normalized the recognition of the gender identity of transvestites and transsexuals. Other higher education institutions are currently under the standardization process of using the Social Name. The Education Department recognizes the right of transvestites and transsexuals to use the Social Name under his administration, since the publication of Decree No. 1612 of November 18, 2011 - this, in turn, was inspired by decree No. 233 of 18 May, 2010 of the Planning, Budget and Management Department. In basic education, from a total of 27 federative units, 16 have already been regulated by the councils and State Education Departments, implementing the Social Name in their school systems. In 2014, it is worth mentioning, for the first time, transvestites and transsexuals were allowed to use their Social Name in the National Secondary Education Examination (ENEM). This guideline has been therefore, at the expense of a lot of dialogue and reflection, taken into account by educational institutions in the country. There are already studies that show that the Social Name has been a strategy, for example, against truancy. (BRAZIL, 2015, p. 01)

The same paper reports the theoretical and inspiring support for the conception of Resolution No. 12 of January 16, 2015.

The construction process of their gender identity, transvestites and transsexuals people generally assume a Social Name, replacing, in their social relations, the civil name. The assumption of this Social Name is not mere superficiality, but on the contrary, is closely linked to the affirmation of their identity. When the institution or school system does not turn to these students by using the Social Name that reflects their gender identity, it denies him/her the recognition of his own identity, including helping to make him/her more vulnerable to violence and discrimination. To be daily challenged with a name that does not reflect the subjective construction of themselves is a humiliating and embarrassing experience with a clear emotional and motivational impact on these individuals. (BRAZIL, 2015, p. 02).

Therefore, the use of the Social Name in school, as well as a right, is very important to these individuals. Thus, it is not appropriate to the school community to judge people's character and personality by the biological sex or by the label designed to marginalize these citizen who also own basic rights such as free and good public education.

Operationalization

The opinion 01 of January 16, 2015, brings indications to the operationalization of recognition of gender identity, constructed from the listed parameters below and through researches and experiences accumulated over the dialogues promoted in meetings that approached the theme, based on: 1) the National Guidelines for Human Rights Education, which set as its foundations, among others, human dignity, equal rights; the recognition and appreciation of differences and diversities; the secularity state and education democracy; 2) the commitments of the Federal Government regarding the implementation of the “Brazil without Homophobia - Violence Combat and Discrimination Program against LGBT⁴ and the Homosexual Citizenship Promotion” (2004), the National Plan for Citizenship Promotion and LGBT Human rights (2009), the National Human Rights Program - PNDH3 (2009) and the National Plan of Policies for Women (2012); 3) the resolutions adopted by the National Conference of Basic Education - CONEB (2008), the 1st National Conference LGBT (2008), the National Conference on Education - CONAE (2010) and the 2nd National Conference on Public Policy and Human LGBT Rights (2011)

1. **Legal instrument and deliberative instance** - can be regulated by resolutions, decree or congeners. The important thing is that such legislation has a normative character and that the institutions and educational networks seek, within the deliberative system, the most appropriate instrument for such regulation.
2. **Addressee of the instruments governing the recognition of gender identity** - the guidance is that there is a self-identification, in which the subject asserts his/her own identity without taking into account medical, psychological or physical characteristics reports. The importance, then, is what the individual understands to be his- or herself.
3. **Legal Majority** - the request must and can be done for over 18 years, legal subjects, including regarding to personality and also to minors duly assisted by their legal representatives.
4. **Oral Treatment** - the use of the Social Name in interpersonal relationships is the first recognition instance. If the civil name registered in the identity document cause any constraints, everyday interpellation by a name that does not reflect the identity of the subject produces constant and permanent injuries. It is essential that educational institutions guarantee those citizens an oral treatment by the Social Name in any circumstances.
5. **Internal Identification Instruments use** - considering the name recognition aims, among others, reduce situations of embarrassment and harassment, it is important that this recognition is also reflected in all the internal tools for identifying, ensuring that the identity of gender is respected at all moments and spaces of academic life. This does not mean that there is a need to link Social Name to the civil name in instruments that do not constitute as official documents. Therefore, it is recommended to the networks and educational institutions to guarantee the exclusive use of the Social Name in internal tools for identifying, maintaining administrative records that makes the link between the Social Name and civil identification.
6. **Official Documents** - As there are still legal obstacles to the use of the Social Name in official documents, what is recommended, isto be used the civil name for the issuance of official documents, ensuring concurrently with equal or greater prominence, the reference to Social Name.

⁴ Lesbian, gay, bisexual, and transgender (LGBT)

7. **Uniforms and other rules of dress** - when there is no uniform, it is common to follow rules on the use of dress elements and other objects. If there are distinctions in the use of uniforms and other clothing elements it is recommend that such rules are applied in accordance with the gender identity of the students.

8. **Use spaces segregated by gender** - if we recognize more than name recognition, but the identity gender recognition of students as well, it is necessary that this recognition is comprehensive, covering all aspects of theirs school and academic life, including access to areas segregated by gender according to their identity. Thus, it is stated that the spaces separated by gender are used according to each person's self-identified gender.

Thus, these are the guidelines that should be the used for the implementation and regulation of relevant rights issues for transvestites and transsexuals with regard to the use of the Social Name.

UFV Case - Universidade Federal de Viçosa

The *Universidade Federal de Viçosa* – UFV – was one of the pioneer universities concerning the regulation of the use of the Social Name. The rule is from June 4, 2013 and it is a Council Resolution of Research and Extension in that university, the highest decision-making organ in the didactic and scientific level, and has the scope “to regulate the use of Social Name by students, technical and administrative staff and teachers at UFV.”

Art. 1. It is guaranteed to transsexuals and transvestites people, the right to choose nominal treatment in records, documents and acts of academic life at the *Universidade Federal de Viçosa*. I - Social Name: first name by which the person is known in the community and their social integration, not contested in the civil registry. II - The use of the Social Name does not create the right to change the legal name. III – Will only be allowed to include the fist name, not being allowed the inclusion, exclusion or a change in the surname. IV - The insertion of Social Name in official documents issued does not imply the exclusion of the name - first name and surname - constant to civil registration.

Art. 2. The use of the Social Name must be requested by an interested person, by an application, with the Social Name to be used, delivered to the School Registration Board with a duly notarized signature. Sole Paragraph - In the case of children under eighteen, the inclusion of the Social Name requires parents' notarized signature, on the application itself.

Art. 3. The use of the Social Name will be regulated as follows: I - Social Name will appear at the student card, attendance list, transcripts of internal use, internal processes, e-mail address, internal documents used by the University with open view to the public. II - In the diplomas, certificates and official documents, must include the legal name. III - At the graduation ceremony, the degree will be granted, at the ceremony, using the registered name and must appear in the minutes of the Social Name followed by the civil name.

Art. 4. This Resolution shall take effect on the date of its publication.

By using four articles, the UFV ensures everyone the possibility of using the Social Name in academic and related records. Based on decrees and other regulations that deal with the subject, the CEPE 13/2013 UFV Resolution offers those who require the ability to have their

rights and dignity respected throughout the academic community. This measure ensures, among others, transvestites and transgender students are not discriminated and thus are not compelled to truancy.

In addition, this measure carries the indisputable necessity to respect the Constitution of the Republic of Brazil when it is about human dignity, about the educational offer of the issues of free and isonomic way.

Conclusion

In the search of legitimacy and effectiveness of educational rights for all, the Brazilian government has invested in the last years in public policies that have presupposed the expansion of access, permanence and learning to social groups that historically are excluded and marginalized from the educational system of the country.

This confrontation is the result of many fights, disagreements, dissonances and responses to inequalities arising from a society established under the effects of paradigms imposed by social prejudices. It is a process of democratization and leveling the differences which are daily submitted and are intended to reach these most vulnerable groups, including those people who, until then, always felt at the margins of society, discriminated by the option of being what they are.

Therefore, recognition of the individuals' gender identity is not simply set up in an administrative procedure by itself. It is a directive that is intended to guide educational inclusive activities that tend to create a more isonomic space for those who want to have a future ruled on equal terms, including those related to the use of space.

Therefore, as proposed in the opinion of 01 January 16, 2015 (Brazil, 2015, p. 06)

The affirmation of diversity and equality, together, have been the guiding principle of public policies in Brazil, especially in recent years. The professed to overcome hierarchies, discrimination and inequality brings invariably some tension, in that it affects privileges and hegemonomies in the material, political and symbolic. In this sense it is essential that the institutions and school systems keep the progress towards ensuring access and permanence in school all individuals, on equal terms, as recommended by our country's legislation.

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