# WORKPLACE ETHICS REGARDING TRANSGENDER: REVIEW AND INSIGHTS

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# ABSTRACT

Research on transgendered communities' worldwide entails heated discussion and contentious debates, presenting challenges for the policymakers tasked with strengthening laws and guidelines supposed to ensure equal access in society and workplaces. Societal change is bringing greater acceptance of transgendered communities in businesses and the work environment. Disturbingly, however, transgendered individuals are still exploited, criticized, harassed, and disrespected within the work domain. Such instances of workplace abuse and victimization often go unreported by targeted transgendered individuals, who fear reprisals or harm. In South Africa, these issues of transgendered people have been highlighted in the media, while the country's constitution and labor laws are premised on equitable treatment of all peoples. This paper addresses the research gap on the issues of transgendered communities in South Africa. Its key aims are to explore the social implications of being a transgendered individual, detail the legal statutes that assist transgendered communities in South Africa, and discuss the workplace ethics that companies should instill to protect transgender rights.

Keywords: Work Ethics, Work Environment, Transgendered Communities, Legislations

#### **INTRODUCTION**

Despite growing research focus on transgendered communities throughout the world, there remains a gap in the literature regarding how their rights are protected in the workplace and on the development of applicable workplace ethics. South Africa is a fairly new democracy, having only overcome the apartheid regime in 1994. We consider it beneficial to research the workplace challenges faced by transgendered individuals in South Africa, although we also draw on relevant literature from other countries to enrich current debates in this academic domain. Transgendered communities in South Africa are beginning to mobilize and speak out about how society, employers, and co-workers have been involved in their mistreatment, abuse, and continued humiliation. This has not been an easy process for those raising these issues. However, it marks an important starting point for informing citizens and workers how intolerance and disrespect have serious consequences for transgendered individuals. In the social media domain, transgendered people are opening up and speaking about their lives and the challenges they face as a community in different parts of the world. However, equity for transgendered individuals is highly dependent on the laws and social transformation in each country. Transgendered individuals are often very reluctant to open up about the oppression and challenges they face within the work environment. More often than not, they allow the intolerance and abuse to continue, for fear of being further victimized by management and staff or even losing their job by complaining. Although transgendered individuals often create confusion in society how male and females should be perceived, this is not intentional: reaffirming their transgendered identity is a matter of survival and acknowledgment of the way they see themselves, not hurting or forcing their identity on others.

Society is formed of diverse cultures; throughout the world, people belong to vibrant, complex, unique, and different cultural groupings. With fairness, equality, brotherhood, respect, tolerance, basic human kindness, and love all key pillars of society, people should embrace transgendered communities as they would any other cultural grouping. However, the evil of

human prejudice persists, including the unhealthy cycle of abuse, humiliation, violence, intolerance, and hate, especially against transgendered individuals. This is what we aim to elucidate in this paper. There are already many people in society who believe in tolerance and respect, refuse to remain silent, and want transgendered communities to be accepted in society. This paper is intended to increase awareness of the plight and suffering of transgendered communities, informing policymakers (among others) of the need for proper legislation to better protect transgendered individuals in society and particularly in the workplace.

In our view, more research should be conducted on transgendered individuals to increase the pressure on public authorities and legislators to ensure true equality in the workplace. The workplace must be safe and conducive to a healthy work atmosphere, for all employees included transgendered individuals, as employees spend a large portion of their day at work. Accordingly, we outline a number of workplace policies and ethics that should be put in place to ensure the safety and dignity of transgendered individuals. We believe that organizations' have an ethical duty and obligation to make transgendered individuals feel included and accepted as equals in the workplace.

#### **Importance of the Research**

Transgender issues are the psychological suffering caused by identifying with the opposite sex to that assigned at birth. In recent years, much development is taking place in characterizing the transgender community's needs, wishing to transition to their preferred gender, thereby providing optimized care. Some critical literature review investigates individuals who are at risk due to this state. The authors are of the opinion that community attitudes, societal acceptance, and post-transition physical attractiveness all contribute to transgender people's state of health and wellbeing. Therefore, it became of utmost importance to examine and investigate how issues related to transgender may affect the workplace and the ethics associated with it.

#### **Research Objectives**

In social situations, especially the workplace, transgender persons may suffer embarrassment and prejudice, as well as unfriendliness and pressure to "control" their identities. As a result of these encounters, transgender people's work satisfaction, turnover intentions, and emotional well-being might suffer. Numerous companies are still unable to establish policies and workplace ethics that assist their trans employees in spite of increased public awareness of the problems that trans individuals confront every day. However, an increasing corpus of research reveals ways to recruit, retain, and promote the health, safety, and success of more effectively than ever before.

# **RESEARCH METHODOLOGY**

This exploratory paper attempts to discover through using secondary data and sources by conducting an extensive literature review. The current study aims to scrutinize the transgender problem from a broader perspective to highlight the need for more vigorous research. To investigate and demonstrate how to have a well-informed and thoughtful understanding of the current situation. We begin with a broad concept and use this study as a source to identify specific problems that can emphasize and set out a base for future research and expose a new direction. Furthermore, the methodology used here is grounded on a broad review of current literature to forecast how it will be possible to aid in identifying issues of concern at the workplace. Utilizing a broad analysis of secondary data and previous literature, the researchers contest themselves to articulate the topic by evolving actions to support the research analogy. The researchers attempt to lay the groundwork for how transgender people may be affected and

face negative workplace reflections by systematically following this endeavour's development. The research questions are: what are the best available solutions to overcome the challenges that transgender people face? How critical is it to devise ethics within the workplace to support and assist these people?

# Who Are Transgendered Individuals?

In this section, we will unpack who are transgendered individuals. The term "transgender" was first used in a series of published articles in *Transvestite* magazine attributed to Prince (1976). She described herself as "transgendered" (p. 145). She used this term to differentiate herself from transsexual because she only changed her gender, not her sex (Prince, 1976; 1978). Transgenderal has since been changed to "transgender" or "transgendered" and has gained significant credibility within the transgender community, both as a personal and social identity (Franklin & Chinn, 2017). As a personal identity, it is used by people who "feel a need to express a gender identity different from the one society associates with their genitals" (Rothblatt, 1995, p. 17).

"Trans" is an umbrella term that is used for diverse people of society. Hancock (2017) states that the term "trans" is an inclusive concept which was "adopted by the UK government in the late 1990s, that is now widely used to refer to British cross-dressers and transsexuals. "Transgender" is a very broad term that includes all kinds of trans people (Bauer et al., 2017), including crossdressers, people wearing a mixture of clothing, people with a dual- or non-gender identity, and transgender people (Green et al., 2018). It has been used to describe a social and political culture that includes transsexuals, transgenes, transvestites, and other "gender-variant" groups of people (Flores et al., 2018). Sausa (2002) says that people may identify themselves transgender because to their feelings about their biological sex, gender roles, or both. A person's sexual orientation, on the other hand, determines their gender identification.

The terms "trans" and "transgender" are also used by individuals whose gender roles and gender identity vary from their birth sex, including transsexual persons, trans-dressers, and androgynous/poly-gender persons, as well as those that identify them as sex variations (Real-Quintanar et al., 2020). According to the American Psychological Association(2015) transgender individuals perceive and orient themselves as persons of the gender other than their biological or chromosomal gender or accept that their sex at birth differs from their permanent sex.

#### The Challenges Faced by Transgendered Individuals within Society

Watson and Veale (2018) explain that western culture has been paying increasing attention to the predicament of transgender and gender diverse (TGD) persons over the last decade. It's no secret that transgender people struggle with gender dysphoria, or the feeling that one's assigned sex doesn't line up with their gender identity. It is often a painful process for a transgendered individual to make sense of their body, when they strongly contest their gender in their mind. This is very conflictual and causes them great pain and emotional suffering. Many people in society have very rigid ways of viewing the world and one another; one aspect of these rigid perspectives is a tendency to consider transsexuality and transgendered cultures as taboo. Lack of understanding about a transgendered individual or group leads to behaviors of rejection and victimization in certain instances. Shah et al. (2018) argue that people often maintain social distance from transgendered individuals. Some people also tend to humiliate these individuals over their differences, without trying to understand their problems. This makes it very challenging for a transgendered individual to come out about his/her identity or to mix freely in society, as they often face being stigmatized, ridiculed, or alienated for their culture and identity.

Shah et al. (2018) add that the transgender community, afflicted by bullying, abuse, and other challenges, has high rates of suicide and ideation. Divan et al. (2016) argue that those in

society who perceive transgendered individuals as violating gender expectations can induce oppression and violence against them. Weir (2016) comments that, since the 1990s, there have been two significant cases demonstrating violence and discrimination against transgendered individuals in the United States of America. The first was the rape and subsequent murder of Brandon Teena in Nebraska; the second was the failure to take adequate care of Tyra Hunter after she was injured in a car accident. According to Mizock & Lewis (2008) the second case illustrating discrimination against transgender people is that of Tyra Hunter, an MtF transperson who, after being in a car crash, was not given proper care at the scene of the accident.

Numerous studies have analyzed people's attitudes regarding transgenderism. Referring to the 2006 Scottish Social Attitudes Survey of 1,594 interviewees, Bromley et al. (2007, p. 15) argued that the main findings suggested:

"half ... would be unhappy about a relative forming a long-term relationship with a transsexual person ... in general, discriminatory attitudes are most likely to be expressed by those with few educational qualifications and by older people. Those who know someone who belongs to a particular group are less likely to express discriminatory attitudes."

Beauregard et al. (2018) found that respondents' attitudes toward trans people were similar to those they held toward disabled people— "a tolerance born of pity." To be pitied for having your own identity and culture is a very sad reality. It is difficult for any human being to not be accepted because they choose to be different. For transgendered individuals who face not being accepted and not being liked, the resulting negative feelings can often lead to suicide.

Trans gendering, often feel very hurt by their parents' refusal to accept them. They can also feel traumatized if forced by their parents to join religious groups that want to reverse their gender identity or sexual orientations. Rogers (2019) in his study in Britain, noted the devastating effects on the child of non-acceptance, but also suggested that sometimes the support within the birth family if they have total acceptance of the child in their acquired gender. However, Rogers (2019) study indicates that this is primarily the case for trans men, and seldom for trans women. It appears that large sections of the British population hold harmful and discriminatory views toward trans people, though there is evidence of movement in a positive direction. Drake (2019) reported that transgender youth experienced feelings of shame and unworthiness because of their negative experiences with other members of society and how poorly they had treated them. Housing shortages and financial support issues forced transgender young people into prostitution. The stigma they face in school often leads transsexual youths to face academic problems and drop out of school.

Kenagy (2005) researched transgender-based health and service needs and reported on discrimination in health care, including the denial of proper treatment because of transgender status. His surveys were conducted in Philadelphia in 1997. Since transgendered people incurred prohibitive costs which resulted in them going without care and they has to forgo treatments they wanted or needed, including hormonal and surgical treatment. Feldman and Bockting (2003, p. 25) noted in relation to service provision that "transgender persons represent an underserved community in need of sensitive, comprehensive health care."

People around the world also have negative opinions on transgendered communities based on who they are. The lack of understanding of and intolerance toward transgendered individuals has led to many of them being subjected to violence, torture, and even death (Wirtz et al., 2020). In the United States transgender individuals experience violence and discrimination (National Coalition of Anti-Violence Programs (NCAVP), 2016). The types of violence experienced by this community include physical and sexual violence but also emotional and psychological violence (Rood et al., 2016). Studies have also indicated that transgender individuals tend to experience numerous forms of violence during their lives compared to the general population (McKay et al., 2019)

Transgendered people subjected to discrimination, emotional abuse, or even violence may hesitate to seek help with these issues. Such hesitation may be caused by several factors,

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such as fear of victimization by the police or other law enforcement officials, adverse reactions to their gender identity, prejudice, and psychological pathologies, particularly for those who do not want to undergo surgical therapy. Violence toward transgender people is still not reported to law enforcement officials because transgendered individuals feel over exposed or embarrassed and do not report it (Calton et al., 2016). The literature suggests that, in some cases, the authorities are responsible for discrimination or abuse (Wirtz et al., 2020). Transphobia can also be institutionalized and legally enforced. In Russia, for instance, transgender people have been banned from driving as transsexualism and transgenderism has been listed as a psychiatric disorder(including schizophrenia and drug addiction) which is perceived as a mental disorder that can make someone unfit to drive (Rogers, 2015). In Swift et al.'s (2016) study in England, Scotland and Wales , 45% of respondents indicated they would be unhappy if a close relative entered a long-term relationship with a trans person, while 33% felt that a trans person would be unsuitable as a primary school teacher.

The fact that transgender individuals, particularly youths, have no safe areas to go for safety, indicates that they are at risk. (Bockting et al., 2020). It is, therefore, essential to raise awareness in society of the transgender experience of violence, abuse and discrimination, and to ensure that resources are available (eg. places of safety and trained medical staff) and support staff are sufficiently trained and capable of working with transgender patients/clients. According to Mercer (2014), the United Kingdom's biggest police forces recorded a rise in transphobic hate crime in 2014, with victims subjected to assaults, verbal abuse and harassment in the street ... the Metropolitan Police saw offences against transgender people rise by 44% in 2014, with 95 crimes recorded, up from 66% from the previous year. Meanwhile Merseyside Police recorded 32 hate crimes, double the previous year against the transgendered communities.

Several studies have focused on issues currently considered essential to transgendered communities. A significant proportion of recent research concerns transgender discrimination, oppression, and the adverse health and social effects (Hughto et al., 2015). Much of the literature on transgendered individuals explicitly considers HIV/AIDS, violence, suicide, and the barriers to accessing health services. Recent evidence indicates that transgendered individuals face issues beyond inferior quality of life and these important considerations need to come to light (Sun et al., 2019). Ritterbuschr et al. (2018) added that transgendered people's problems involve mental, physical and sexual abuse. Because transgender people do not necessarily conform to societal expectations, feeling they have been born into the wrong body, this population faces a large amount of stigma, discrimination, and violence. They also encounter numerous other problems and obstacles.

Transgender individuals need more help than they can access. Whittle et al. (2007, pp. 16, 43–45) reported that "21% of respondents' GPs did not want to help transgender people"; "in 6% of cases ... they actually refused to help them [with transgender matters]." In addition "17% of respondents had experience of a nurse or doctor ... who did not approve of gender reassignment and hence refused services [for non-transgender issues]." "Accessing healthcare was the ... third highest sector where trans people encountered discrimination and inequality" and "many local health authority funding refusals or refusals for care [were] from individual health service workers who expressed personal prejudice about gender dysphoria." Bockting et al. (2020) stress the holistic and wide-ranging nature of mental health for trasgendering individuals, arguing that it is intrinsically connected to cultural, physical, sexual, psychosocial and spiritual aspects of health. It is essential that for individuals' seeking help relating to gender concerns, the clinician must be knowledgeable about gender and sexual identity developments, transgender individuals' 'coming out', crossdressing, gender dysphoria, gender transition and the common concerns and reactions of transgendered individuals' loved ones.

It is no wonder that transgender people have a shorter lifespan than others. This is due to depression, that can arise from the feeling of being born in the wrong body (Rimmer, 2017). Rimmer (2017) adds that when it comes to quality of life of transgendered community, female to male ("FtM") transgender have poor quality life compared with the general population. In a

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Dutch study, transgender men scored lower on quality-of-life metrics, especially on public and social health measures. By contrast, transgender females scored higher on body pain measures than the general sample (O'Bryan et al., 2020).

Transgender individuals can suffer a variety of violent acts or assaults that cause physical harm. These acts include being assaulted with or without a weapon, having objects thrown at them, or being forced to have sex (Baumann et al., 2019). Transgender high school students experience abuse including pushing, shoving, punching, burning, and sexual harassment and oppression by men and women (Weir, 2016). Psychological and emotional abuse includes humiliation and degradation in public or private. Here the transgendered youth is often lied to by the adult partner or manipulated and promised things from a partner who just uses them for sexual favors. (Weir, 2016). In Papazian's (2018) study, 83% of transgendered respondents reported that they had been verbally abused or harassed. The risk of discrimination, intimidation, bullying, and harassment for transgendere people is a looming threat. This highlights further the different ways in which transgendered individuals are emotionally, mentally, and verbally victimized. The researches add further that violence against these individuals seems to be prevalent in verbal abuse (Bockting et al., 2020).

Religious views on transgendered cultures are another contentious debate. Barrett (2007, pp. 278-282) explored the influence of religion on the attitudes of friends, relatives, close family, and the transsexual person themselves. He noted a mix of profound opposition to gender reassignment (e.g., the Catholic Church does not believe in surgery or use of hormones for this purpose) and apparent acceptance, some Muslim scholars recognizing the need for "a clear sexual identity" and that "gender reassignment surgery would be acceptable. There are many different views and interpretations on transgendered people in the world's religions. Lal (1999) points out that, in Hinduism, a group of biologically male eunuchs called Hijras are regarded in India as spiritual beings that can bring luck or fertility to others. In the Bible and the Torah, eunuchs are described as being welcomed into the church and accepted by God (Isaiah 56:3–5). Wilcox (2002) found that some LGBT people view their identity as "a sacred gift from God ... something not just to be endured, but to be celebrated." Many studies have shown that transgendered people who experience positive religious experiences and participate in faith communities experience improved quality of life by reducing stressors, establishing supports, fostering a sense of belonging and community, and increasing feelings of inner peace (Abdel-Khalek, 2006; French & Joseph, 1999).

Transgendered people often face challenges in the workplace. Managers may not understand transgendered people, and their lack of tolerance can make the lives of these employees very difficult at work. Whittle et al. (2007) add that transgender people have identified numerous and varied workplace issues that influence their ability to feel comfortable in their work environment. One issue is the lack of procedures for ensuring that others in the workplace are aware of how to treat a transgender person who is transitioning.

# Legal Protection of Transgendered People's Rights in South Africa

South Africa's Constitution and Labour laws afford great protection for transgendered individuals against victimization, abuse, and harassment in the workplace. Recognizing the country's recent history of segregation, discrimination, and injustice under the apartheid regime, South Africa's first democratically elected government enacted new laws protecting the rights of all citizens. Section 23(1) of the Constitution of South Africa states that everyone within the workplace has the right to fair labour practices. Violation of this right entitles the transgendered individual to pursue legal recourse against their employer. The Employment Equity Act 55 of 1998 further promotes equality within the workplace in South Africa. Section 6(1) states:

"No person may unfairly discriminate, directly or indirectly, against an employee, in any employment policy or practice, on one or more grounds, including race, gender, sex, pregnancy, marital status, family responsibility, ethnic or social origin, colour, sexual orientation, age, disability, religion, HIV status, conscience, belief, political opinion, culture, language, birth or on any other arbitrary ground."

This provides important protection for transgendered employees in the workplace, as managers cannot discriminate against them based on their gender, sexual orientation, or culture. In South Africa, the Employment Equity Act 55 of 1998,Section 6(3) also prohibits the harassment of an employee, which it regards as a form of unfair discrimination. This section gives further protection to transgendered individuals, who often face sexual and physical harassment in the workplace. Transgendered people are also protected against unfair dismissal by Section 185 of the Labour Relations Act 6 of 1995. These laws illustrate that South Africa has been an actively transforming society and is committed to the inclusion of all people in the workplace, including transgendered cultures.

#### Work Policies and Ethics for Transgendered Individuals

In order to guarantee that transgender people are treated equally, a variety of policies and procedures can be put in place. Transgender employees can be treated with respect and inclusion if the business shows a good attitude towards transgender personnel (Cunningham, 2015). Employees who identify as transgender must feel respected. Men and women in positions of authority should talk about reducing the gender gap and developing an effective policy to promote diversity. To obtain a confidential memorandum of understanding, an employee who is transgender has the right to do so from their company. Peate (2020) for example, identified the following important issues that need to be included in such a memorandum:

- Time off (if applicable) for the surgery;
- Communication by the stakeholder community including members, staff, agencies, organizations, and customers, as appropriate;
- Equipment, e.g., door signs, name inscriptions, email addresses, other types of identification and photo of the newly transgendered employee;
- Personal changes, e.g., of name or dress;
- Use of facilities.

The rest of this section outlines the areas in which organizations should act to fully accommodate transgendered employees as equals in the workplace, offering practical suggestions for employers and policymakers.

Changing jobs if you're a transgender worker in a public job, you may want to consider reassigning your gender in order to better your career, either temporarily or permanently (Marvell et al., 2017). Managers should be as accommodating as feasible when an employee requests a change in their job.

#### Absence from work

While undergoing gender reassignment, employees in the United States should be safeguarded. If they are missing due to illness or injury, they will not be treated less favorably. Neither a minimum nor a maximum length of time for such absence is specified in the legislation (Leppel, 2020). A company's human resources department should be made aware of any requirements or changes that an employee may require while on sick leave (including a gender transition).

#### **Dress Codes**

Employers should enable them to dress according to their gender identification. In order to facilitate this transition, managers should provide as much flexibility as possible to the individual (Brewster et al., 2014).

# Selection

Transgender individuals must not be discriminate against by a third party, such as by requesting an employment agency to reject a transgender person.

# **Toilets and Changing Rooms**

Managers must guarantee that the employee has access to gender-neutral restrooms. There's a possibility of setting a date for the social shift and notifying relevant colleagues (Bozani et al., 2019). A transgender employee must be permitted to use the restroom or changing room of their declared gender identification without fear of harassment. As a temporary solution during the changeover phase, people should not be forced to use unisex handicapped bathrooms (Joseph et al., 2017).

# **Measuring and Monitoring**

When it comes to identifying as transgender, most people prefer to identify as male or female rather than transgender. Avoid categorizing gender identity as a sexual orientation or gender while monitoring (Kao, 2019). Transgender employees might benefit immensely from having a supportive employer that is willing to help them through the process of understanding and adapting to their new gender identity. Some of these processes should be re-examined to make them more accommodating for transgender employees.

# **Gender Recognition Certificate**

After obtaining a gender recognition certificate, an individual may get a new birth certificate that shows his/her sex. Employers should be allowed to use the new birth certificate in the same way as is used by other workers for other administration conditions of work (Triana, 2017). Indeed, where an individual reassigns their gender before joining an organization, employers do not require the a gender recognition certificate as they have changed their sex prior to joining the organization. Also, transgendered individuals may be married or have civil partnerships in their acquired gender and may have a state pension appropriate for their gender identity. The employee needs to keep note of the employees' marriage or partnership as these people can be listed as beneficiaries in the pension or provident fund of the organization.

# Name Change

Employers should be made aware if transgendered employee change their name. Many transgender individuals may choose to live under a different name to the one they were given at birth, without obtaining a gender identification certificate to permanently change their gender. A name can be changed using a statutory declaration or deed poll.

# **Confidentiality and Data Protection**

The gender status and transition background of an individual is private and should not be revealed without their express permission, preferably in writing. If a gender certificate is issued, after the transgendered person does the sex change operation, the records need to be updated accordingly. With respect to the transgendered persons' pension and insurance, this will still reflect old data on his/her identity however, it must be confidentially preserved by the employer. When work records are updated with new details of the worker, changes to name badges, signs, and email addresses will generally follow. As for all HR documents, appropriate levels of confidentiality should be maintained.

#### CONCLUSION

Transgendered individuals from all walks of life face pervasive negative experiences and discrimination in society and within the workplace. Many transgender men and women still live with threats, hate, discrimination, and harassment in their everyday lives. At work these people can bear the brunt of jokes and ridicule, be sexually harassed because of their gender identity, and face continual victimization by management or staff simply because they do not conform to gender identity norms. This demeaning, intolerant, and disrespectful behavior simply must change. It is, therefore, important that organizations have proper workplace ethics in place to protect the physical and mental wellbeing of transgendered individuals: they need support from organizational management to improve their quality of life of work life.

#### **Future Research Areas**

Future research should be conducted on the experiences of transgendered individuals in Africa. Studies are needed of workplace dynamics and how transgendered individuals navigate them, especially in South Africa. The laws in South Africa affording protection in the workplace to transgendered individuals should also be explored in greater depth. Beyond the workplace, studying the different experiences of transgendered individuals with respect to health care, reporting abuse, and receiving mental support from health practitioners and family & friends can provide a wealth of useful insights into these people's lives. Finally, there is a need for more research on how the world's major religions view transgendered communities.

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