

## Gender identity law in Mexico.

## Ley de identidad de género en México.

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**Abstract.**

Although gender identity recognition has not been fully implemented in Mexico's federal legal system, significant progress has been made at the state level: currently, 22 states have recognised this right through various reforms that allow birth certificates to be modified through administrative procedures. In the case of Puebla, the process was marked by violence, as one of the activists fighting for this recognition was brutally murdered; however, a decade later, the so-called "Agnes Law" was discussed and approved. These achievements are largely attributable to the sustained activism of LGBT, feminist, and transgender movements committed to advancing these rights. This paper analyses and develops, in chronological order, the various reforms implemented in Mexico's federal entities, based on documentary research involving a systematic review of specialised sources.

**Keywords:** Gender identity. Mexico. Agnes Law.**Resumen:**

A pesar de que en México el reconocimiento de la identidad de género no se ha materializado plenamente en los ordenamientos jurídicos a nivel federal, en el ámbito estatal se han logrado avances significativos: actualmente, 22 entidades federativas han reconocido este derecho mediante diversas reformas que permiten la modificación de actas de nacimiento a través de trámites administrativos. En el

caso de Puebla, el proceso estuvo marcado por un contexto de violencia, ya que una de las activistas que luchaba por este reconocimiento fue brutalmente asesinada; no obstante, una década después se abrió paso a la discusión y aprobación de la denominada "Ley Agnes". Estos logros deben atribuirse en gran medida al activismo sostenido de los movimientos LGBT, feministas y de personas trans comprometidas con el avance de estos derechos. En este trabajo se analizan y desarrollan, de manera cronológica, las distintas reformas implementadas en las entidades federativas de México, a partir de una investigación documental basada en la revisión sistemática de fuentes especializadas.

**Palabras clave:** Identidad de género. México. Ley Agnes..

## Theoretical framework

The gender perspective is a conceptual approach that allows reality to be analysed from the perspective of power relations between genders, evaluating policies, legislation and the exercise of rights. This approach recognises that gender is a social construct that influences the opportunities and roles assigned to men and women, and seeks to promote substantive equality between them (Mujeres en Red, n.d., para. 1; Supreme Court of Justice of the Nation, 2020, para. 2).

For its part, gender identity is understood as the internal and individual experience of gender as each person interprets it, which may or may not coincide with the sex assigned at birth. This experience includes the personal experience of the body, which may or may not involve the modification of bodily appearance or function through medical, surgical or other means, provided that it is freely chosen (Inter-American Court of Human Rights, 2017, para. 1).

On the other hand, from a radical feminist standpoint, the legal recognition of gender identity through self-determination has been questioned as a threat to sex-based rights. Radical feminists argue that the category "woman" must be anchored to biological sex, since it was precisely on that material basis that the historical struggle against patriarchal oppression was built (Jeffreys, 2014, para. 3). Along these lines, organisations such as FiLiA in the United Kingdom assert that self-identification blurs the boundaries between women and men, hindering the existence of policies and safe spaces for women (FiLiA, n.d., para. 2).

Similarly, feminists such as Sheila Jeffreys have argued that the notion of "gender identity" displaces the materialist analysis of sex, replacing it with subjective, self- r categories that do not protect women as an oppressed class (Jeffreys, 2014, para. 5). For this sector of feminism, gender

identity laws, although promoted in the name of equality, imply a loss of protections historically won by women on the basis of their biological reality.

For their part, anti-racist and decolonial feminists have also criticised the concept of "transitioning to womanhood". Authors such as Ochy Curiel argue that gender is a colonial construct imposed by the modern/colonial system to hierarchically organise people around the sex/gender binary (Curiel, 2007, para. 4). From this perspective, the idea that someone can "become a woman" reproduces colonial logic, as it reduces women, especially racialised women, to stereotypes of femininity created by Western patriarchy (Lugones, 2008, para. 6). From this approach, gender self-identification not only renders invisible the material oppressions linked to sex, but also universalises Western categories of "woman", erasing the historical experiences of indigenous women, women of African descent and women from the global south.

However, at the international level, legal recognition of gender identity is considered a fundamental human right. The Inter-American Court of Human Rights, in its Advisory Opinion OC-24/17, established that States must guarantee that individuals can adjust their name, image, and gender in civil registries to match their gender identity, without the need for discriminatory medical or judicial requirements (Inter-American Court of Human Rights, 2017, para. 101). Similarly, the United Nations High Commissioner for Human Rights has stated that discrimination against transgender persons undermines the human rights principles established in the Universal Declaration of Human Rights (UN, 2020, para. 2).

In this context, several countries have adopted legislation that allows for the legal recognition of gender based on self-determination, without requiring medical interventions or psychiatric diagnoses. For example, in 2016, Norway passed a law allowing citizens to change their legal gender by notifying the National Registry, without the need for surgery or medical diagnosis (Norwegian Parliament, 2016, para. 1). Similarly, in 2012, Argentina implemented a law allowing individuals to change their gender on official documents without medical requirements, becoming one of the pioneering countries in recognising gender self-determination (Argentine National Congress, 2012, art. 3). These laws reflect a global movement towards the recognition of gender identity as a basic human right, in line with international human rights standards (Outright International, 2023, para. 4).

Concrete examples illustrate these tensions. In Argentina, Law 26.743 (2012) was celebrated internationally as pioneering, but local radical feminists, such as members of the abolitionist campaign Ni Una Menos (Not One Less), have criticised that self-identification opens the door for

men to access spaces and resources designed for women, weakening shelter policies for victims of gender-based violence (Tarducci, 2014, para. 7). In Norway, the Gender Recognition Act of 2016, which allows for gender registration changes from the age of six with parental authorisation, has been singled out by radical groups as normalising sexist stereotypes in childhood, reinforcing the idea that certain behaviours or appearances determine gender identity (Jeffreys, 2014, para. 8). Finally, in Spain, Law 4/2023 for the real and effective equality of transgender people generated heated debate; Feminist groups such as the Alliance Against the Erasure of Women denounced that self-identification without medical or legal requirements jeopardises sex-based statistics and the protection of women in sports, prisons and the workplace (Alliance Against the Erasure of Women, 2023, para. 2).

In the specific case of Mexico, despite legal advances in gender identity, both activists and experts have pointed out challenges and areas of controversy. For example, organisations such as the Mexican LGBTTTIQANB+ Coalition have denounced legislative initiatives such as the one presented by Senator Lilly Téllez, which seeks to limit legal recognition of gender to biological sex, which would imply a setback in fundamental rights and legal equality (Mexican LGBTTTIQANB+ Coalition, 2025, para. 2). In Jalisco, radical feminists warned of cases of alleged vicarious aggressors who would change their gender to evade legal responsibility, a situation that exposes procedural loopholes and risks of abuse in the system (El País, 2024, para. 3). In addition, Human Rights Watch has highlighted that, although 20 of the country's 32 states have reformed their laws to facilitate legal gender recognition, most only apply to adults, while only seven allow minors to access the procedure and only three expressly recognise non-binary identities, which shows significant limitations in the universalisation of these rights (Human Rights Watch, 2025, para. 4).

In addition to the legal and social challenges to gender identity legislation, there have been reports of electoral fraud that have attracted criticism from both activists and gender equality experts ( ). In the 2018 Oaxaca elections, a feminist collective reported that 17 men presented themselves as trans women to meet the parity quota, usurping spaces intended for genuine female candidates (EFE / Univisión, 2018, paras. 1–2). Similarly, in the 2024 elections in Michoacán, at least eight cases were identified of men elected as municipal presidents after registering as transgender women, prompting investigations by both the INE and the courts, which denounced a flagrant violation of affirmative action measures designed to promote the historic political participation of women (El País, 2024, para. 1).

In Guanajuato, there was also a case where a PT candidate claimed to feel like a woman in order to obtain a candidacy as a councillor; the State Electoral Council classified the situation as simulation and ultimately denied the registration (Correo, 2024, para. 1). These incidents have been described as a form of "identity theft" by electoral authorities such as Rita Bell López-Vences, a member of the INE, who has warned that this type of fraud highlights how easy it is to manipulate inclusion mechanisms without effective protection (El País, 2024, para. 3).

### Gender identity law in Mexico.

This document aims to provide an overview of gender identity law in Mexico with the aim of reflecting on how the non-recognition of gender identity affects transgender people. The central argument of all the decrees issued and the legislative discussions undertaken is directed towards the legal and personal identity of the individual, due to the fact that there is no coincidence between what is established in the identity document issued by the state (birth certificate, INE, passport) and th<sup>1</sup> ity with which the individual perceives themselves and the image they project in society. Therefore, we can understand that transgender people face problems in accessing their rights if their legal identity does not match their gender identity.

Faced with these complications, LGBT organisations and activists have invoked and appealed to the international treaties to which Mexico is a signatory, such as the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights, which recognise, among other rights, that every person has the right to liberty, equality, non-discrimination on the basis of sex, and recognition of their legal personality.

It also recognises the Yogyakarta Principles, presented on 22 March 2007 as a global charter for LGBT rights to the United Nations Human Rights Council in Geneva, which focus on the application of international human rights law in relation to sexual orientation and gender identity.

Along the same lines, Article 1 of the Political Constitution of the United Mexican States determines that "all persons shall enjoy the human rights recognised in this Constitution and in the

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1 "Legal personality can be explained as the investiture, established by positive law, equivalent to the ancient mask, attributable to any legally organised corporation or collective, provided that it has the capacity to be the subject of rights and obligations." (Fernández R, J. 2011) pp.34

Fernández Ruíz, Jorge, Administrative Law and Public Administration, 4th Edition, Porrúa, Mexico, 2011.

international treaties to which the Mexican State is a party, as well as the guarantees for their protection..." (Political Constitution of the United Mexican States [CPEUM], art. 1). It is precisely on this point that the arguments seeking the approval of gender identity laws in the different federal entities of the country will focus. The struggle of the trans population and LGBT community activists is mainly limited to recognition through the modification of birth certificates where gender and name are reassigned.

### 2008: Mexico City

Mexico City is the first federal entity where progress has been made on the recognition of gender identity, which began in 2005 and saw results in 2008. These advances were only possible thanks to the struggle of the trans community for the recognition of their right to identity, a struggle that was fought in the courts through judicial means such as civil amparo 6/2008<sup>2</sup>.

This amparo was granted by the Tenth Family Court of the Federal District through a resolution in which:

[...] admitted the claim for processing on 22 September 2005 [...] in which the claimant requests: 1. Rectification of the birth certificate to change the name to reflect social and legal reality, 2. Rectification of the birth certificate to change from male to female and bring it into line with social reality, 3. (Requests) that no certificate be published or issued that reveals the origin of the person's condition [...] on the grounds of their right to privacy. (Direct civil appeal 6/2008).

On 12 June 2007, it was determined that the plaintiff had partially proven their claims, and therefore the courts would accept the rectification of the birth certificates by making a note in the margin of the certificate corresponding to the name and sex lines, but not a new certificate, as this relates to an adjustment of identity, but not a change of filiation.

Therefore, on 14 June 2007, the activists requested clarification of the ruling, considering it confusing, as it would directly impact the exercise of the civil rights of these individuals related to their sexuality, such as marriage. The judge in charge responded to this request by reaffirming his

2 Available at: DIRECT CIVIL AMPARO 6/2008, RELATED TO THE POWER OF ATTRACTION 3/2008-PS (scjn.gob.mx)

position, indicating that there would be a change of name and sex, but not of filiation, as the authorities would not disregard the sex of origin.

Despite this, the plaintiff decided to insist and file a counterclaim, to which the courts responded that there was nothing to clarify and that the original ruling was upheld. In view of this, the plaintiff filed a direct appeal on 9 November 2007 before the First Family Chamber of the Superior Court of Justice of the Federal District and on 6 February 2008, the complainant requested that the SCJN exercise its power of attraction. On 14 May 2008, with four votes in favour, the First Chamber of the Court exercised its power of attraction, registering it under number 6/2008, where it would be resolved with the amparo and protection of the law of the concepts of violation suffered by the complainant.

Therefore, from 2008 until the reform of the civil code for the Federal District in 2014, the way to change one's name and sex on one's birth certificate was through an amparo trial, which is a costly and time-consuming legal process. On the other hand, on 13 November 2014, the Legislative Assembly of the Federal District<sup>3</sup> approved, with 42 votes in favour and none against, the ruling of the Commission for the Care of Vulnerable Groups, which recognises the "multiple expressions of sexuality that exist".

### ***2017: Michoacán and Nayarit.***

On 18 August 2017, the Official Gazette of Michoacán published the reform of Article 117 of the Family Code for the State of Michoacán de Ocampo<sup>4</sup>, which authorises the registration and issuance of certificates for gender identity changes, making the corresponding annotations in the certificate, without the need to prove surgical intervention, therapy, or any other medical procedure as grounds for such a procedure.

The procedure itself requires simple documentation such as completing a form issued by the civil registry, a certified copy of the birth certificate, a copy of the voter ID card, and proof of address. This means that only adults will be able to access gender identity change. It is also specific in that the

<sup>3</sup> Cf. <https://www.youtube.com/watch?v=fvy1JnrfF4>

<sup>4</sup> [FAMILY CODE-REF-5-APRIL-2021.pdf \(congresomich.gob.mx\)](#) accessed on 18 October 2023.

rights and obligations contracted by individuals prior to the change of identity are not modified under any circumstances and all federal institutions will be notified as confidential information.

Since its constitution and the reform of the family code, Michoacán has sought to guarantee transgender people recognition in law and regulations, so that they can enjoy complete freedom of expression, exercise their rights and live a life free from discrimination and violence, like all other citizens of Michoacán. Undoubtedly, these advances in legislation aimed at the transgender population are the result of the efforts and struggle of LGBT community activists, who have lobbied and exerted political pressure to make the transgender population subjects of rights.

The state of Nayarit approved the gender identity law early, in June 2017, becoming the third federal entity to approve the law after the Federal District and Michoacán. The law, as in the other states, seeks not only to comply with international standards, but also to guarantee rights to all its citizens. For this reason, an administrative procedure has been designed that aims to streamline and simplify the process, as well as reduce costs for those interested.

"The Justice and Human Rights Commission of the Nayarit Congress approved reforms to the Civil Code and the Code of Civil Procedure for the State of Nayarit, promoted by a group of transsexual, transgender and transvestite activists." (Arena Pública, 24 July 2017)<sup>5</sup>

Although the issue of transgender children was not strictly stipulated, by 2022 there had been five cases in the state of Nayarit of minors who had successfully changed their gender identity, just like adults. The minors were between 16 and 17 years old, with one exceptional case of a 10-year-old.

### ***2018: Jalisco and Coahuila.***

Jalisco is another state that has approved the gender identity law through an administrative process carried out at the civil registry. This was achieved on 7 April 2022 with the approval of the amendment to Article 23 of the Civil Registry Law with 26 votes in favour, 10 against and one abstention. The amendment to the law specifies that persons over the age of 18 will be able to access this right.

<sup>5</sup>Public Arena. <https://www.arenapublica.com/articulo/2017/07/24/6554/nayarit-aprueba-ley-de-identidad-de-genero#:~:text=Las%20personas%20de%20la%20comunidad,en%20su%20acta%20de%20nacimiento.&text=The%20Congress%20of%20Nayarit%20approved%20last%20Friday%2021%20of,on%20their%20birth%20certificate>

This contrasts with the decree issued in 2020 by the governor of Jalisco, who legally guaranteed that trans children could access recognition and legal reassignment of gender identity. This decree had positioned Jalisco as the first state in the federation to generate explicit and legal recognition for trans children.

The process for changing the birth certificate is simple. The interested party is required to have a birth certificate issued in the state of Jalisco and to present a certified copy for safekeeping, fill out an application for gender identity change specifying the name and gender they are requesting to reassign, and provide a copy of any other official identity document. Medical certifications or surgical interventions are not required. In the case of minors, the adult guardian in charge must submit a written authorisation for the change.

Another new feature of this law is the addition of Article 202, which seeks to punish pseudoscientific practices, individuals, or institutions that seek to repress, suppress, or modify a person's gender identity and expression. Fines amount to MX\$30,000, thus protecting and punishing the criminalisation and stigmatisation of trans individuals and children.

With this, Jalisco ranks at the federal level as the most progressive state in terms of recognising the rights of the LGBT community at the federal level. It is important to note that this, rather than being an initiative on the part of the ruling class and politicians, is the result, as in previous cases, of the struggle of activists and the LGBT community to advance the recognition and guarantees of their rights. However, the first changes came about through a decree issued by the state governor, bypassing the legislature.

In Coahuila, the process took place through specific reforms to various articles of the Civil Registry Law.<sup>6</sup>

Article 119, for its part, states that it will be at the request of a legitimate party, after verification, to clarify a record, and the sections break down the different cases where clarification is required. Rectifications requested regarding the recognition of gender identity must follow the procedure indicated in Articles 124, 125, 126, 127, and 128 of the Law. The judicial resolution

<sup>6</sup> Coahuila Congress: [coa118.pdf \(congresocoahuila.gob.mx\)](#) accessed on 19 October 2023

declaring the gender change resulting from transgender operations must be presented to the Directorate and the Registry Office.<sup>7</sup>

However, the "legitimate interest" of the applicant is sufficient to validate the need to make the relevant adjustments for the recognition of the gender identity of transgender persons so that they can have access to the other substantive rights guaranteed to them by local and federal legislation thanks to the obtaining of an official document that correlates their self-perception and documentation.

Articles 124 to 128 belong to the "Fourth Section Administrative Procedure for Gender Identity" of said law, which establishes: "In no case shall it be a requirement to prove any surgical intervention, therapy or other diagnosis and/or procedure for the recognition of gender identity." (L.R.C.E.C 2023), which explicitly reaffirms that only legitimate interest is required to make such a change and the only conditions for the procedure to be denied are: 1 defects in consent, because the condition that the decision to change gender be free and informed must be met.

### ***2019: Colima, Chihuahua, Oaxaca, and Tlaxcala.***

On 7 February 2019, MORENA Deputy Vladimir Parra Barragán presented the ruling drafted jointly by the Legislative Studies and Constitutional Issues Committee and the Gender Equality and Equity Committee, proposing the modification of various provisions Article 35, first paragraph, and Article 37, first paragraph, as well as the addition of Articles 135 Bis, 135 Ter, and 135 Quáter, all of the Civil Code for the State of Colima<sup>8</sup>. The line of argument supporting the reform refers to the case in Veracruz, where, in the absence of laws related to the recognition of gender identity, the state was sued by a transgender person before the Supreme Court of Justice of the Nation (case 1317/2017 2), where an amparo trial was promoted to allow the modification of their birth certificate<sup>9</sup>.

With this, the commissions succeeded in having the reforms and additions presented last February of that year made official on 6 April 2019 through Decree 49 published in the Official State Gazette, the reforms and additions presented last February of that year were made official, where

<sup>7</sup> It should be clarified that even though the cited article mentions a judicial resolution, the subsequent articles describing the administrative procedure for gender identity recognition do not provide for any judicial process, which is more of a legislative error than a condition for carrying out the procedure.

<sup>8</sup> See [Gender Identity Ruling 1 initiative.pdf \(congresocol.gob.mx\)](https://congresocol.gob.mx/gender-identity-ruling-1-initiative.pdf) accessed on 20 October 2023

<sup>9</sup> See [Summary AR1317-2017 DGDH.pdf \(scjn.gob.mx\)](https://scjn.gob.mx/summary-ar1317-2017-dgdh.pdf) accessed on 20 October 2023

Article 35 of the Civil Code for the state of Colima<sup>10</sup> in section IX establishes: "Issuance of a birth certificate for the recognition of gender identity, subject to the corresponding annotation on the original birth certificate."

Also, Article 37, in its second and third paragraphs, reads as follows: "The assistants of the Civil Registry Offices shall carry the books authorised for that purpose ([New Civil Code for the State of Colima, 2019](#)). These changes shall be recorded in the two copies of the register and subsequently incorporated into the electronic file, which is interconnected with the General Directorate of the Civil Registry and the National Population Registry of Mexico.

Articles 135 Bis, 135 Ter and 135 Quáter explain the procedure in broad terms and the agencies where the procedures must be carried out, such as the General Directorate of the State Civil Registry, where the birth certificate can be issued for gender recognition after annotation of the original certificate. Another important and progressive element of this law is the fact that no treatment, therapy or procedure is required for recognition.

It is important to note that the requirements for the procedure include: a certified copy of the original birth certificate, the original and a copy of official identification and proof of address, Mexican nationality, and being over 18 years of age.

In Chihuahua, gender identity recognition does not come from the state legislature, but rather as a result of the specific actions of an activist who filed a complaint, and triggered a resolution by the Second Chamber of the Supreme Court of Justice of the Nation, declaring a contradiction in the thesis promoted by the organisations México Igualitario, CHEROS, Red Solidaria Trans, Género sin Fronteras, Unión y Fuerza de Mujeres Trans Chihuahuenses, PROtrans, Proyecto Transgénero Chihuahua, BITTTRANS Ciudad Juárez and Grupo Fanny Mujeres Transgénero<sup>11</sup>.

The SCJN received the complaint of contradiction of theses and on 12 August 2019, the president of the Supreme Court registered the file as: contradiction of theses 346/2019<sup>12</sup> raised between the plenary session of the Seventeenth Circuit and the First Collegiate Court. The contradiction was an administrative error by the Sixteenth Circuit, since it is unconstitutional to process the rectification of a birth certificate for gender reassignment through the courts.

<sup>10</sup> See [New Civil Code for the State of Colima \(congresocol.gob.mx\)](#) accessed on 20 October 2023.

<sup>11</sup> Proceso. [In Chihuahua, transgender people can amend their birth certificates without an injunction - Proceso](#), Tuesday, 26 November 2019.

<sup>12</sup> Available at: [2\\_259865\\_4277.doc \(live.com\)](#)

The court analysed different criteria established in appeals under review, the first of which was civil appeal 137/2017. This appeal is based on the determining criterion that the human rights of free development of personality are violated by forcing transgender people to undergo a judicial procedure to rectify their birth certificates.

One of the most interesting points in this document is that it states that such practices reproduce structural violence by generating state-authorised discrimination when denying a change of identity and maintaining the data concerning the name and sex of the person who changed their gender identity in their documents, with only a marginal note of the ruling granting the rectification being recorded.

The resolution of the contradiction in thesis 346/2019 is important because it established case law (Thesis: 2a./J. 173/2019 [10a.])<sup>13</sup> which requires similar cases to be resolved in the same way at the federal level, but particularly sets a precedent in states where there is no legislation recognising gender identity, forcing local congresses to adapt their legislation to recognise gender identity.

In the case of Chihuahua, the Court argues that another contradiction was the fact that local legislation stipulated in:

[...] subsection d) of Article 130 of the Civil Code of the State of Chihuahua established that civil legislation also provides for a substantial change to the birth certificate before the administrative authority, such as the name, when it is discriminatory, pejorative, denigrating or exposes the person to ridicule. (Contradiction of thesis 346/2019, p.7)

Therefore, it should not have been done through the courts.

Then, upon finding normative discrimination in the Civil Code of Chihuahua, the Court ruled that these provisions were unconstitutional and:

[...] considered that forcing a person who self-identifies with a gender identity different from that assigned at birth to exercise their right to sexual reassignment or name rectification only through an administrative procedure approved by a judge or an ordinary civil trial, and not through an administrative procedure without approval, implies hindering and limiting the exercise of their rights. (Contradiction of thesis 346/2019, p.7)

<sup>13</sup> Supreme Court of Justice of the Nation: [Details - Thesis - 2021582 \(scjn.gob.mx\)](https://scjn.gob.mx/Details-Thesis-2021582)

In the state of Oaxaca, gender identity has been recognised through two reforms of the Civil Code of the State of Oaxaca<sup>14</sup>, the first in 2019 and the second in 2021. The reform of the third section of Article 137 ter, the second and third sections of Article 137 Quater; and the addition of two paragraphs to Article 137 Quater of the Civil Code for the State of Oaxaca published in the Official Gazette of Oaxaca<sup>15</sup> on 5 October 2019, was approved by 29 votes in favour in a simple majority vote without presentation of the ruling or discussion thereof.<sup>16</sup>

The ease with which this amendment to the law was approved may be strongly determined by the cultural, traditional, and ancestral aspects embodied in the figure of the Muxe, who is recognised in Zapotec culture as a person of the third gender. The muxe is a man, born biologically male, but who assumes the roles, activities, and practices of women, without disputing their position. They originate from the Isthmus of Tehuantepec and "are recognised, accepted and loved by their families. It can even be a blessing to have one in the family, because they will take care of many things and stay at home looking after their parents. It is a matriarchal society" (Santillán, Ciencia UNAM-DGDC, 2019).

On 21 September 2022, with 29 votes in favour and<sup>17</sup> against, the second reform carried out by the Oaxaca Congress on the recognition of gender identity was passed. It was presented by the Permanent Commission for Administration and Justice, which reformed the third section of Article 137 ter and the second and third sections of Article 137 quater; and the addition of two paragraphs to Article 137 quater of the Civil Code for the state of Oaxaca, which provides that minors under the age of 12 may choose and request a change of gender identity through an administrative process before the Civil Registry and that this will be possible with the authorisation of their parents or guardians. and in the event of refusal, the minor may apply to the State Attorney General's Office for the Protection of the Rights of Children and Adolescents in Oaxaca to demand compliance with their right to gender identity.

<sup>14</sup> [CIVIL CODE FOR THE STATE OF OAXACA \(congresooaxaca.gob.mx\)](http://congresooaxaca.gob.mx)

<sup>15</sup> See the Official Gazette of Oaxaca, where the 2019 reform is published)

Available: [SEC40-02DA-2019-10-05 \(oaxaca.gob.mx\)](http://SEC40-02DA-2019-10-05(oaxaca.gob.mx))

<sup>16</sup> See Oaxaca Congress Debates Journal 2019) available at: [Diario de Debates Sesión Ordinaria Segundo Periodo Ordinario Tercer Año LXIV Legislatura del Estado 22 septiembre 2021.pdf \(congresooaxaca.gob.mx\)](http://Diario de Debates Sesión Ordinaria Segundo Periodo Ordinario Tercer Año LXIV Legislatura del Estado 22 septiembre 2021.pdf (congresooaxaca.gob.mx)) (

<sup>17</sup> See: Journal of Debates of the Oaxaca Congress, session of 21 September 2022, available at: [Diario de Debates Sesión Ordinaria LXV Legislatura del segundo periodo ordinario del primer año de ejercicio legal 21 septiembre 2022.pdf \(congresooaxaca.gob.mx\)](http://Diario de Debates Sesión Ordinaria LXV Legislatura del segundo periodo ordinario del primer año de ejercicio legal 21 septiembre 2022.pdf (congresooaxaca.gob.mx))

This makes Oaxaca one of the most progressive states in the country, allowing adults and minors to change their identity through an administrative procedure.

Tlaxcala, for its part, approved the gender identity law in 2019, becoming the eighth federal entity to advance in these recognition processes. It was during the Ninth Ordinary Session of the 9th Legislative Assembly on 1 October 2019, published in the parliamentary gazette<sup>18</sup>, that the "first reading of the ruling with draft decree, reforming and adding various provisions to the civil code for the state"<sup>19</sup> took place in point three of the agenda for that session, from which it can be inferred that:

On 28 February 2019, "[...] Deputy Omar Milton López Avendaño, through his initiative with a draft decree, proposes to reform Article 559 and add a third paragraph to Article 583 of the Civil Code for the Free and Sovereign State of Tlaxcala [...]"

On 14 March 2019, the following was presented:

[...] initiative with a draft decree proposing to amend Articles 603 and 604 and the title of CHAPTER IV of TITLE FOURTEEN of BOOK TWO to read RECORDING OF THE RECOGNITION OF GENDER IDENTITY, all of the Civil Code for the Free and Sovereign State of Tlaxcala [...]

On behalf of the deputy Miguel Ángel Covarrubias Cervantes, who expresses the following through the initiative.

The foregoing implies that the identity change procedure is a purely administrative process before the civil registry. The main requirements are to be of legal age and to submit a written application stating their intention to change their identity documents with the reassignment of gender and name. This exempts them from submitting medical reports or surgical adjustments. In addition, the Commission ruled that the certificates should not be subject to a time limit and should be issued free of charge, after the corresponding annotation has been made on the original birth certificate, the first certified copy of the birth certificate.

### ***2020: San Luis Potosí, Sonora, Quintana Roo, Nuevo León.***

Not even the pandemic stopped San Luis Potosí from passing the gender identity law, which was done virtually, where the Justice Commission approved the addition to Article 19.3 of the Civil Code:

<sup>18</sup> [GACETAPARLAMENTARIA01OCTUBRE2019.pdf \(congresodetlaxcala.gob.mx\)](#)

<sup>19</sup> Congress of the Union: [D.A56.-REPORT-CONGRESS-UNION.160519.pdf \(congresodetlaxcala.gob.mx\)](#)

[...] reported that this reform establishes consistency with the amendments to the Civil Registry Regulations, published in the Official State Gazette on 17 May 2019, regarding personal data contained in Public Registry records in accordance with self-perceived gender identity, in accordance with the principle of equality and non-discrimination in relation to the recognition of gender identity. (San Luis Potosí Congress, 2020)<sup>20</sup>

The aim of the reform is for the procedure to be carried out under an administrative procedure in the civil registry, where, after an annotation in the original birth certificate, a new certificate will be issued to the adult who complies with the documentation required for said procedure. Those who submit their application are not required to provide medical certification, hormone treatments or surgical interventions in order to exercise their right to gender identity reassignment and name change.

In Sonora, the discussion on gender identity took place at the regular session of the Sonora State Congress on 29 September 2020<sup>21</sup> and provides for the following:

Article 113, although its original principle was to authorise the modification of the record, through the addition of section IV, it is now explicit that said record can also be modified to change an individual's sex and identity. On the other hand, Article 115 specifies that it will be through an administrative procedure that orders the rectification or modification of a record. As in the previous article, section XIV has simply been added to this article, specifying that such modification may also be made in cases where it is necessary to change a person's sex and identity. Finally, Article 116 Bis states that only persons of legal age may request the issuance of a new birth certificate for the recognition of gender identity, subject to the corresponding annotation in their original birth certificate.

Under no circumstances shall it be necessary to provide proof of any surgical intervention, therapy or other diagnosis and/or procedure for the recognition of gender identity. The effects of the new birth certificate for gender identity shall be enforceable against third parties from the moment it is issued. The rights and obligations contracted prior to the administrative process for the

<sup>20</sup> Congress of San Luis Potosí: <http://congresosanluis.gob.mx/content/aprobadas-reformas-al-c%C3%B3digo-civil-sobre-identidad-de-g%C3%A9nero>

<sup>21</sup> See: [\(1147\) 29 September 2020 - Ordinary Session - YouTube](#)

recognition of gender identity and the issuance of the new certificate shall not be modified or extinguished by the person's new legal identity.

In order to obtain a new birth certificate for the recognition of gender identity, interested parties must submit a duly completed application, a certified copy of the original birth certificate, and the original and a photocopy of their official identification.

The certificate will be issued at the General Directorate of the Civil Registry or at the place where the birth was registered. The corresponding entry and reservation will be made immediately. If the procedure is carried out at the General Directorate of the Civil Registry, the latter will notify the registry where the original birth certificate is located. The original birth certificate will be reserved and no certificate will be published or issued, except by court order or ministerial request.

Once the corresponding procedure has been completed, the official letters with the information will be sent, as confidential, to the federal and state authorities that need to be aware of the new birth certificate for the recognition of gender identity.

The state of Quintana Roo has approved the modification of birth certificates in order to reassign a person's gender identity through a simple administrative procedure at the civil registry. The reform of the Civil Registry Code was carried out in 2020, when the Local Congress made a series of adjustments with the aim of making this regulation applicable in all civil registries in the state, without exception.<sup>22</sup>

The procedure, as in previous cases, is simple, as it requires the preparation of a written application (a simple document of only four pages) stating that the individual is a Mexican citizen and of legal age, providing the details of their original certificate and those they wish to change. Original birth certificate, copy of their voter ID card, CURP and proof of address<sup>23</sup>.

After submitting the documentation to the municipal civil registry office, the person will have to wait for the date indicated by the official to pick up their new certificate, which will allow them to begin procedures at other institutions with their new document. Thanks to Decree 061, the person requesting the adjustment of their identity is guaranteed exemption from submitting medical, psychological, or psychiatric reports, or undergoing hormonal or surgical treatments.

<sup>22</sup> El Financiero: <https://www.elfinanciero.com.mx/peninsula/congreso-de-quintana-roo-aprueba-iniciativa-que-reconoce-la-identidad-de-genero/>

<sup>23</sup> Quintana Roo Congress: <http://documentos.congresoqroo.gob.mx/decretos/EXVI-2020-11-17-61.pdf>

For its part, Nuevo León, after three years of waiting, achieved this legal advance through joint work between the Civil Registry Directorate, the Human Rights Commission and the Movement for Equality Collective, which would directly verify the state's transgender population. Unlike the previous procedures, this one must be carried out at the state's Citizen Pavilion.

The process is simple, as the interested person only has to present the documentation required by the Civil Registry and pay the processing fees. At that point, the Civil Registry's legal team files a claim with the Virtual Family Court, transferring responsibility to the state, with the aim of obtaining a favourable ruling for the applicant. After three weeks, the person receives their new documents with their reassigned identity.

Nuevo León is one of the states that opposes and sanctions conversion therapies, considering them instruments of torture against the person, and it is also one of the states that authorises minors to carry out the procedures after obtaining authorisation from their guardians. However, in Nuevo León, the procedure must be carried out through the court and not directly at the civil registry.

### ***2021: Baja California Sur, Morelos, State of Mexico.***

Morelos, for its part, published a decree allowing both adults and minors aged 12 and over to change their identity from November 2021 onwards, through a simple administrative procedure at the civil registry.

In Morelos, the change was made through a decree issued by the state governor and not after a vote in the local chamber of deputies, so it is the executive branch that takes the initiative to guarantee the rights of citizens. The changes were made to the family code regulations and the civil registry regulations.

In this regard, interested parties may apply to the relevant authorities of the Civil Registry of the state of Morelos to request, on a one-time basis, the issuance of a new birth certificate due to gender reassignment, after the corresponding annotation has been made on their original birth certificate. (Official Newspaper "Tierra y Libertad", 26 November 2021)<sup>24</sup>

On 20 July, the State of Mexico carried out reforms to Article 3.42 of the Civil Code: the reform aims to guarantee the rectification of birth certificates for transgender persons, with the aim

<sup>24</sup> Government of Morelos. <https://morelos.gob.mx/?q=prensa/nota/se-publica-reglamento-del-registro-civil-para-tramitar-el-reconocimiento-de-identidad-de>

of ensuring that they are consistent with the gender identity of the applicant. The decree was approved with 60 votes in favour, 1 against and 8 abstentions.

The main requirements for accessing this right are that the person requesting the change of identity must be over 18 years of age, a Mexican national, a resident of the state, and not have any ongoing legal proceedings. In addition, they must appear at the civil registry office with their original birth certificate, a request stating their personal interest in carrying out this procedure, proof of address, the proposed name without surnames and gender to be changed, and provide their signature and fingerprints in the system. Only if the applicant requests it from the civil registry official will the latter issue an official letter to the other public authorities, notifying them of the change.

### ***2022: Sinaloa, Hidalgo, Baja California.***

The year 2022 began with good news for activists and transgender people in Sinaloa, as in January of that year, with 19 votes in favour and 5 against, the gender identity law was approved through a reform of the civil code. The reform mainly consists of allowing people over the age of 18 to change their identity through an administrative procedure whereby they can modify their name and gender on their birth certificates, without having to prove hormone treatments or sex reassignment operations.

The law was complemented by an amendment to the state discrimination law, with the punishment of any attempt to carry out conversion therapies, arguing that these practices are physically, emotionally, and psychologically violent for individuals. These advances were achieved thanks to the fact that the amendments were made via the local congress, through legislation. Hidalgo, in its ordinary session on 19 April 2022, would refer the initiative with a draft decree to reform articles 214 ter and 214 quater of the Law for the Family of the State of Hidalgo<sup>25</sup>, in addition to the reform of Article 115 of the Municipal Organic Law for the State of Hidalgo, with the aim of promoting the recognition of gender identity. After seven months of processing the initiative, the ruling was approved and published in the Official Gazette on 24 November 2022<sup>26</sup>.

<sup>25</sup> Hidalgo State Congress. [LAW FOR THE FAMILY OF THE STATE OF HIDALGO \(congreso-hidalgo.gob.mx\)](https://congreso-hidalgo.gob.mx)

<sup>26</sup> Hidalgo Legislative Gazette. The ruling was approved with 27 votes in favour and has the registration number: Ruling 225, presented at session 94 - First Ordinary Period on 03/11/2022, available at: [Legislative Gazette \(congreso-hidalgo.gob.mx\)](https://congreso-hidalgo.gob.mx)

Article 214 ter recognises that every person has the right to recognition of their gender identity, and further recognises that in the case of persons whose self-perception does not fit into the categories of male or female, they shall have the right to recognition and registration of their non-binary gender.

Article 214 quater establishes that any person of legal age may submit a request for an annotation to be made to the original record of their name and chosen gender identity (Legislative Gazette, 2022).

There are only four requirements for recognition, which are set out in Article 214 quinquies, and at no point is there any requirement to prove treatment, surgery or physiological change. However, this procedure is only for persons of legal age.

Baja California has managed to implement the reform through legislation passed by the local congress, where, after a vote of 19 in favour and 5 against, Articles 35 and 132 of the Civil Code were amended to allow for the change of gender identity on birth certificates through a simple procedure at the civil registry and to ban conversion therapies.

It is important to note that only Mexican nationals over the age of 18 can access this procedure, and no medical, hormonal or surgical certification is required to confirm the person's identity. To carry out this procedure, the interested party must submit an application, an original certificate, proof of address and a copy of official identification. The original certificate will be kept by the authorities and no "annotation" will be made on the new certificate, leaving the procedure completely confidential between the state and the interested party.

### **2023: Zacatecas.**

Zacatecas, as in other states, achieved gender identity law through a decree issued by the executive branch and not through legislation by the local congress. The reforms were made directly to the family code in order to be able to carry out procedures to rectify the birth certificates of persons who require it in order to match their gender identity with their official documentation<sup>27</sup>.

The modifications will be made without annotation on the new certificate, and the original will be safeguarded by the authority. This modification does not exempt individuals from legal

<sup>27</sup> Government of Zacatecas. <https://www.zacatecas.gob.mx/garantiza-zacatecas-reconocimiento-a-la-identidad-de-genero/>

responsibilities and rights assumed prior to the modification of their registered legal identity. This means that everything related to family matters, such as inheritance, can be claimed despite the change of identity, as can the payment of child support, debts incurred with the financial system, etc.

The procedure is administrative in nature and only requires you to appear at the civil registry offices with the requested documents. This decree is only applicable to Mexican citizens over the age of 18 who were born in the state, as it is carried out at the municipal office where the original certificate is located.

### **2024: Yucatán.**

Yucatán becomes the 22nd state in Mexico to pass the gender identity law. This state does so via legislation with a unanimous vote. It was the Institutional Revolutionary Party that promoted this initiative in conjunction with LGBT community movements and activists. The aim is to guarantee legal certainty for the full exercise of their rights.

The reform, as in other states, determines that gender identity changes must be made administratively by interested parties at the civil registry offices after complying with the documentary requirements. This eliminates the need for amparo proceedings for those interested in completing the process. In a way, this democratises access to this right.

However, this law is reserved only for adults and does not cover minors, leaving trans children outside the scope of this legislation.

### **The exceptionality of Puebla, the Agnes Law.**

The particularity of Puebla is that, in memory of a murdered activist and trans woman, the law bears her name. Agnes Torres was a psychology graduate from the University of Veracruz who migrated to Puebla to develop her professional career. Her activism and struggle for recognition began when she requested a change of identity on her professional degree. She therefore specialised in issues related to gender identity, working with organisations such as Humana Nación Trans, Centro por las Sexualidades 'Erósfera' and Red Democracia y Sexualidad.

Agnes Torres, now living in the city of Puebla, was brutally murdered in Chipilo on 9 March 2012, after being beaten, tortured, suffocated and robbed. Her body was dumped by the three perpetrators in Atlixco, who then fled in the victim's car. Due to the nature and brutality of the crime,

it was assumed to be a hate crime, premeditated by Agnes's partner and a group of friends. Those responsible were sentenced to prison and fined in 2018 for the crimes of aggravated murder and robbery.

Agnes' murder was a turning point in trans activism in the conservative city of Puebla. Her friend Devany Sangines founded the organisation Transexual Agenos Torres and, in collaboration with the Transsexual Collective of the State of Puebla, the Observatory of Sexual and Reproductive Rights, and the Puebla Pride Committee, began to draft a bill aimed at achieving recognition for trans people, which they presented in March 2013.

The law sought primarily to allow trans people to make changes to their birth certificates, modifying their name and sex without the need to present documents proving hormone treatments or surgical interventions.

It was not until 2021 that the proposal was put to a vote in the local Congress of Puebla, where it was approved with 34 votes in favour, 0 against and 6 abstentions. The ruling was approved in general and in particular. "The ruling is supported by eight articles (73, 76, 291, 397, 401, 831, 854 and 1432) and adds articles 875 Bis and 875 Ter to recognise the right of individuals to access a change in their self-perceived gender identity." (El Financiero, February 2021)<sup>28</sup>

This demand was not only promoted by LGBTI community organisations, but was also supported and raised by feminist collectives in the state, bringing the issue to the fore in Congress alongside the discussion of the law on legal termination of pregnancy.

In a live virtual public session broadcast on 25 February<sup>29</sup>, attended by 37 deputies, a discussion was held on the "Report with Draft Decree presented by the Joint Committees on Governance and Constitutional Matters and on the Prosecution and Administration of Justice of the 60th Legislature of the Honourable State Congress, amending and adding various provisions to the Civil Code for the Free and Sovereign State of Puebla," which states that the ideal way to change one's name and bring it into line with the public and legal reality of individuals is through administrative channels.

<sup>28</sup> El Financiero: <https://www.elfinanciero.com.mx/estados/congreso-de-puebla-aprueba-en-lo-general-ley-agnes-para-reconocer-identidad-de-genero-autopercebida/>

<sup>29</sup> Available at: [\(1148\) Ordinary Public Session - YouTube](#) and on the Puebla Congress website for the 60th Legislature, available for download in PDF format: [Ordinary Public Session | Honourable Congress of the Free and Sovereign State of Puebla, 60th Legislature \(congresopuebla.gob.mx\)](#)

With this, the Agnes Law legislates the right of transgender persons to request the rectification of their birth certificates through an administrative procedure carried out at the civil registry offices of Puebla, modifying their name and gender in accordance with the applicant's requirements.

### Conclusion.

According to the proposals put forward by queer theory, it is important to consider, when legislating on issues related to gender identity, that gender identity laws should be flexible, retractable and non-linear or rigid, as this allows us to understand that a person's sexuality and identity is not static, but fluid and changing.

In the case of Mexico, the regulations developed so far are extremely far removed from this proposal made by queer theory. Mexican legislation to date is merely procedural, based on the idea that, by being able to change their birth certificate, all rights are guaranteed to the trans population. While this should be the case in theory, in practice it could not be further from reality.

Considering that the established laws are neither disruptive nor destabilising, all they do is insert the trans population into the dominant heterosexual binary model. The modification of birth certificates through administrative channels, while democratising this right by making it more economical, accessible and rapid ( ), does not in any way eradicate the structural, social, economic, educational and homicidal violence to which trans people are permanently exposed.

An example of this is the Agnes Law, which limited itself to reforming the civil code, wasting the opportunity provided by the context of the law and the support of feminist groups to classify *transfemicide* as a hate crime specifically against the trans population due to their extreme vulnerability.

It is also important to design legislation to guarantee access to health, housing, education and employment through quotas, with the aim of changing the historical conditions of social, political, economic and educational marginalisation of the trans population. The only area in which complementary progress has been seen in the legislation and decrees issued by both the executive and legislative branches in the different federal entities is the fact that conversation therapies are sanctioned and that applicants are not required to present medical certificates guaranteeing any type of psychological, psychiatric, hormonal or surgical treatment in order to carry out the procedure. It is sufficient to state one's intention to change one's identity for the procedure to be carried out.

Finally, this document has shown us that the legislation or regulations that have been implemented in Mexico have two main characteristics: the activism of the trans population, the LGBT community and feminists have been decisive in these advances, and the changes only require political will to be approved, as the complexity of the changes is minimal.

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