

Trans women's rights from the perspective of Vietnamese Labour Law

Nguyen Thi Hong Nhung^{1,*}, Nguyen Thi Xuan Mai², Tran Thien Trang³



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ABSTRACT

The rapid development in medicine has led to various legal issues related to transsexual persons. In terms of female workers' rights, it is worth considering the rights of male to female transsexuals (trans women) from the perspective of labour law. The question here is whether trans women have the same rights as those of female workers. In fact, trans women must use hormones to maintain their female characteristics during their lives, which make them weaker and shorten their life. Furthermore, after the sex transition, many parts of trans women's bodies shall have significant changes such as the face, skeleton, muscle, genitals and so on. At this point, trans women should be treated in the same way as 'women-born-women'. Since this issue may become a heavy burden for trans women, the paper aims to have an insight on the current Vietnamese labour law concerning mainly (i) the trans women's right to raise a child under twelve months of age and (ii) retirement ages. This paper is structured into three main sections. The first section aims to shed light on the re-consideration of the modern feminist theory on who are counted as women. The second section takes a view of trans women's rights from the perspective of labour law. The final section is for conclusion and recommendations. It is pointed out that in the Vietnamese legal context that trans women workers may easily become victims of discrimination because of the lack of specific regulations. It is worth stating that the gap of legal procedures and provisions related to gender recognition for trans women could be barriers preventing trans women from enjoying the rights of female workers under the Vietnamese Labour Code. To summarize, this study is necessary, especially in the context that Vietnam is currently drafting the Law on Gender transition. The Feminist Legal Theory and the methodology of analysis, comparison, and synthesis of legal dispositions are used to analyse the mentioned matters.

Key words: trans women, gender, female worker, labour law, Feminist Legal Theory

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LITERATURE REVIEW ON FEMINIST WAVES AND TRANS WOMEN WORKERS' RIGHTS

Throughout the years, Feminism and transsexuals^{a 1-5} have been sparked through movements. The world history has seen many stages relating to the trans woman's juridical development^{b 6}.

The most notable event was the case of Kimberly Nixon. This case was considered to be linked to so-called waves of feminism. Kimberly Nixon, a trans

^aIn the Article, we have used the following key terms: - **Transgender**: This umbrella term is used to describe the people who has a gender thinking different to the gender role assigned to them at birth, including [but not limited to] transsexual, third gender, ...; - **Trans woman or transgender woman or Male to Female transgender person**: This term used to describe a person who identifies and lives as a woman although they were assigned male at birth.; - **Transsexual**: This term refers to individuals who choose another gender rather than their birth gender. They have permanently altered or desire to undergo physical alterations through medical interventions [such as hormone treatment, surgery]. See more at [1], [2], [3], [4], [5].

^bThe first women's rights movement emerged to secure the right to vote, to own property as married women, and to gain legal access to birth control by nineteenth century. See more at [6].

woman, was refused a position at the Vancouver Rape Relief and Women's Shelter. Although Nixon's birth certificate was changed after the sex surgery, under section 27(1) of the Vital Statistics Act, the Vancouver Rape Relief and Women's Shelter's trainer believed that Nixon had not always been a woman as Nixon was not a women-born-women. Nixon filed a complaint to the British Columbia Human Rights Commission. As a result, it triggered arguments within the feminist movement in Canada⁷. The Nixon case was then linked to so-called the waves of feminism.

Concerning the first wave of feminism, feminism struggled over a liberal ideology to decrease sexual differences and eliminate obstacles to women's success. Over the late 19th century, first-wave feminism primarily required women's right to vote and fought for an empowered position for women in society by removing sex-based disadvantage and external barriers without a particular concern about 'the gender'⁸. Unlike the first wave of feminism, the second wave took action on political issues and the nature of

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women. They acknowledged that improving the women's social position could depend not only on counteracting the effects of biological difference but also on considering the separation of **gender** from **sex**. It was convinced that sex is defined as biological sex, and the feminine gender is not fundamentally attached to the female sex [7, p.306]⁹. In this way, feminism in its second wave highlighted the importance of feminism to both men and women, which was demonstrated by the attempt to debunk gender divides and gender stereotypes. Women were characterized as a homogenous group instead of separately determining the singular category of 'women'¹⁰.

The third wave emphasized the awareness of bisexual and trans identities. It was suggested that sex and gender were unfixed and changeable [7, p.307]. Similarly, gender theorists expected to break down the perception that every individual naturally fitted in one of two gender types¹¹. Third-wave feminism was affected deeply by Queer theory, which assumed that the categories of gender and sexuality were likely to continually and unexpectedly change. At the same time, it was hard to connect gender and sexuality to binary understandings of 'male' and 'female'¹⁰.

Similarly, fourth-wave feminism has been associated with social media, the fluidity of gender, and sexual orientation¹². It is inevitable to clarify the issue of gender in efforts to protect women's equality. While there have been debates in the waves of feminism, it is undeniable that the perception of women's rights could not be limited to the definition of women based on biological and physiological characteristics.

This new consideration causes the effect on various juridical perspectives (civil law, family law, labour law and so on) and at different levels (national or international). Over the last decades, international human rights legislation has increasingly demonstrated transgenders' right to equal treatment, non-discrimination in many aspects¹³. There are regulations requiring the government to re-issue personal documents such as birth certificates or driving licenses, identity cards for transsexuals in case of a changed gender¹⁴. However, there has been little discussion on trans women's rights in the labour relationship. This leads to the result that trans women have not received much attention to be effectively protected under labour law. It is the reason that this paper focuses on labour law, especially in Vietnamese law.

The right to work is one of the fundamental human rights, which is well declared in Article 23 of the Universal Declaration of Human Rights, on the ground of non-discrimination of sex, race, colour, language,

religion, political or other opinions, national or social origin, property, birth or other status^{c 15}.

Recently, although Vietnam has taken steps to build the legal framework related to transgender people, those provisions are still generally regulated. For example, the Constitution 2013 recognized the citizens' equal rights in all fields regardless of gender, race, ethnicity, or political^{d 16}; the right of sex reassignment is recognized as one of the citizen's rights in Vietnamese Civil Code 2015, at Article 36^e on the Right to re-determine gender identity and Article 37^f on Sex reassignment¹⁷. However, all of the mentioned regulations are vague and uncertain since there has been no guidance. This issue has led to significant concern for their employment rights.

Notably, the Labour Code 2019^g has affirmed that protecting and creating a fair working environment is one of the essential policies of the State in the labour area¹⁸. However, 'fair' does not mean 'equal' in literal meaning. This is the reason that the Vietnamese law has been preserved one chapter only for improving **female employees'** working conditions, basing on the female nature (Chapter X of the Labour Code 2019 and Chapter IX of Decree 145/2020/ND-CP on detailing the 2019 Labour Code). There are regulations on ensuring gender fairness and on promoting women's mother missions. In other words, the advantages given by law to women come from their female gender (according to the title of the Chapter, Article 135 and 136 Vietnamese Labour Code 2019) and their mother missions (from Article 137 to 142 Vietnamese Labour Code 2019).

What remains uncertain in the mentioned provisions is how to define female gender or mother missions.

^cThe Universal Declaration of Human Rights states that 'Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment. Everyone, without any discrimination, has the right to equal pay for equal work'. See more at [15, art. 23].

^dThe Constitution of the Socialist Republic of Vietnam 2013 states that: 'Male and female citizens have equal rights in all fields. The State shall adopt policies to guarantee the right to and opportunities for gender equality. See more at [16, art. 26].

^eVietnamese Civil Code 2015 on the Right to re-determine gender identity states that 'The sex reassignment shall comply with regulations of law. Each surged transgender has the right and obligation to apply for change of civil status affairs as prescribed in law on civil status affairs and has the personal rights in conformity with the transformed gender as prescribed in this Code and relevant laws'. See more at [17, art. 36].

^fVietnamese Civil Code 2015 on Sex reassignment states 'The sex reassignment shall comply with regulations of law. Each surged transgender has the right and obligation to apply for change of civil status affairs as prescribed in law on civil status affairs and has the personal rights in conformity with the transformed gender as prescribed in this Code and relevant laws'. See more at [17, art. 37].

^gVietnamese Labour Code 2019 states that: 'Ensure gender equality; introduce labor and social policies aimed to protect female, disabled, elderly and minor employees'. See more at [18, clause 7 art. 4].

There is no definition of that in the Labour Code 2019. This implies that there are such ways of determining female employees: (i) either basing on the sex identity card (resulted from the birth certification); or (ii) on the capability of pregnancy (for mother missions)¹⁹. When it comes to trans women, although the Vietnamese Civil Code 2015 has Article 36 on the Right to re-determine gender identity and Article 37 on Sex reassignment as mentioned above, the issue of gender re-determination on identity documents and other documents related has not yet been implemented in practice over five years since the Civil Code 2015 entered into legal effect²⁰.

As a result, the sex information on the identity document seems to be the only legal key for determining gender legally. This means that through the lens of labour law, a trans woman employee may be treated as a father instead of a mother because of lacking the mentioned requirements. As a result, the rights of female workers under the current labour law and those of trans women workers seem to be separated. In this article, the authors support the idea that trans women employees should have legal rights in accordance with their preferred alternative female identity²¹ in terms of (i) the right of raising a child under twelve months of age and (ii) the right of having the retirement ages, independent with the sex recognition in a legal document (identity card for example).

This paper is divided into three main sections. The first section gives a brief introduction to the Feminist Legal Theory and its waves throughout the times. This section aims to shed light on the re-consideration of the modern feminist theory on who are counted as women. The second section takes a view of trans women's rights from the perspective of labour law. Specifically, the authors argue that the trans women workers' rights relating to raising an under-twelve-month-old child and retirement ages in accordance with their preferred gender should be recognized by the Vietnamese Labour law. The final section is for conclusion and recommendations. The article uses the Feminist Legal Theory and methodology of comparison, analysis, and synthesis to delineate trans women worker's rights.

RESEARCH METHODS

This article is based on documents related to feminist theory and cases related to trans women workers' rights. Current Vietnamese legal regulations are also applied to evaluate, analyze and offer solutions to protect trans women workers' rights. The article uses the Feminist Legal Theory and methodology of comparison, analysis, and synthesis to delineate trans women worker's rights.

FINDING AND DISCUSSION

Trans women's right under Vietnamese Labour Law

Trans women's rights relating to raising a child under twelve months old

The Labour Code 2019 has a significant shift regarding gender equality in the labour area. Specifically, Chapter X of the Code has its main focus on not only the rights of female workers but also the rights of both female and male workers related to pregnancy and children. In general terms, both male and female workers are protected during pregnancy or raising children under 12 month-year old. Those so-called rights are restriction on working overtime, nightshift and business trips during the pregnancy period and raising children under 12 month-year old; rights to not be dismissed or unilaterally terminated labour contract because of reasons such as marriage, pregnancy or raising children under 12 month-year old or receiving premium package of maternity leave.

Besides the mentioned rights, female workers are specifically given rights directly related to their physical conditions during this time. For example, during pregnancy or raising children under 12 months old, female workers have a 60 minutes rest during working hours and still receive full salary. Furthermore, they have the right to request a safer task than the current tasks or decrease one regular working hour in the harsh, toxic, dangerous working conditions or any work that might negatively affect her maternity [18, clause two art.137]. The list of works that are harmful to child-bearing and parenting functions of female workers and male workers are also clearly different in the great numbers of harmful works in terms of female workers compared with that of male workers [Circular No.10/2020/TT-BLDTBXH on elaborating and guiding specific articles of the labour code concerning employment contracts, collective bargaining council and jobs with hazards to reproductive function and children raising, Appendix]. Also, a stable employment relationship is guaranteed more in the case of female workers: they are prioritized to sign a new labour contract if the contract automatically ends.

From the listed rights, it is easy to see that due to particularly physical conditions and the attempt in work-life balance of female workers [18, clause three art.135], labour law has given a special mechanism to protect female workers during pregnancy and raising children under 12 month-year old.

This mechanism seems to be perfect until it comes to whether trans women workers, in case of either

adoption or using 'her' sperm to have a baby under 12 months old, shall enjoy the stated female worker's rights?

When researching Chapter X for female workers, it is not difficult to understand the purpose of those dispositions: it is for protecting female workers (due to their vulnerable physical condition when being pregnant) and the future Vietnamese generation (the baby). For trans women, they cannot be pregnant to be protected²², but can raise a child. Clause 5 Article 139 Labour Code 2019 has stated that if the workers adopt a child under six months old, she/he^h can enjoy the rights of maternity leave until the baby reaches full six months old [23, art. 36]. Thus, it is inferred that trans women can be protected under this provision without consideration of the legal status 'mother' or 'father' for the child.

Nevertheless, it is not enough for raising a baby up to twelve months old because many other privileges given by Vietnamese labour law are for 'legal' female workers, such as: to have safer work if she is currently in the state of a toxic or dangerous working condition; ; having a 60 minutes rest during working hours and still receive full salary, having a longer list of dangerous jobs that might negatively affect their maternity function or even a more stable employment relationship by prioritizing to sign a new labour contract if the contract automatically ends during the time of pregnancy of raising a child under 12 months year old. Thus, since the current Labour Code does not explicitly state who is considered as female workers, by looking at the practice of female workers' mentioned rights, female workers are understood as whose sex is legally stated in their identification documents as female.

Since Viet Nam currently does not have any lawsuits related to this matter, it is necessary to look at the practice of countries worldwide. Regarding the question of who is considered as a father/mother of a child, it is currently a controversial topic in many countries' legislation. For example, section 9(1) of the UK Gender Recognition Act provides the recognition of a full gender certificate and 'that person's gender becomes for all purposes the acquired gender'. Nevertheless, section 12 regulates that this recognition does not affect a person's status as the father or mother of a child, and this is to stabilize a child's parentage²². In other words, in

^hVietnamese Law on Social Insurance 2014 uses the term 'worker' in general, not 'female worker', so it can be understood that man or woman (including trans woman) can become beneficiaries of the disposition. See more at [23, art. 36].

terms of rights relating to children, trans women are treated by their gender at birth^{i 24}.

In fact, in some countries, the description 'mother' or 'father' has been considered to be the main factor to determine a person's legal status connected with a child, considering their gender identity at birth²². Similar rules have also been accepted in countries such as Germany, Denmark, or Norway. For example, in the case of OH and GH vs. Germany²⁴, OH - a German trans man who gave birth to his child by using donor sperm has been assigned the legal status of 'mother' because of the fact being a legal woman for birth registration⁶. Similarly, in the Case No. XII ZB 459/16, 29 November 2017 by the German Federal Court of Justice, the court ruled that trans women whose preserved donor sperm was used to conceive a child that was born after a legal gender recognition can only acquire the status as a father and not as a mother²⁵.

On the contrary, Swiss legislation provides an alignment between legal gender and parenthood to determine a person's parenthood²⁶. For instance, the Swiss domestic courts have accepted a trans man who gave birth to a child after obtaining gender recognition as a father^{27,28}.

Alternatively, there can be a harmony between these rules. Take Belgium and the Netherlands as an example. While a trans man who gives birth will always be his child's 'mother', recent reforms have made it possible for a trans woman, who provides sperm, to be registered as a co-mother [29, art. 1:198(c) BW] [30, art. 6].

When it comes to the labour area, it can be seen that the way the law recognizes trans women's status as a mother or a father shall reflect their rights in the employment law. As shown above, the results shall be completely different whether a trans woman is recognized as a mother or a father. In the former case, trans women shall have the same rights as male workers, while in the latter case, trans women shall have the same rights as female workers. The result, in each case, shall have a significant impact on the trans women's work life and social life.

From the Vietnamese labour law, trans women are currently not seen as women in nature. This may come from the standing point of the universal notion of human reproduction³¹. However, along with the fact that feminist theory nowadays is step-by-step recognizes that biological is not the only way to determine a person as a woman¹², not only by women who

ⁱCase XII ZB 660/14 [September 2017] [Germany] where German law only recognises parenthood through adoption or ancestry and provides that the surrogate mother is the legal mother of the child. See more at [24].

can give birth but also trans women who can fulfill their roles as a mother shall also be counted as women in a broad scope. As a result, trans women workers shall also be considered mothers who perform the role in raising children under 12 months year old and be given the same protection mechanism as female workers. This means that, under labour law, female workers shall be defined as not only whose sex is legally stated in identification documents as female but also those who had changed their physical conditions and appearance. This argument comes from one of the reasons why labour law gives female workers special protection: their physical conditions. This recognition shall be a solid ground for changing the attitudes in modern parenting, which enhances one's ability to raise a child at her best, regardless of parent status as trans or not³².

The trans women's right of retirement age

The retirement mechanism plays a crucial role in the sustainable development of a nation. Having an effective retirement mechanism helps not only to balance the state's budget revenues and expenditures but also to ensure gender equality.

Before the reform of the Labour Code, the retirement age in Viet Nam was 55 years old for female workers and 60 years old for male workers. However, in the context that the population of Viet Nam is getting older (the rate of National Aging Index in 2019 and 2024 is predicted to be respectively 48,4% and 61,1%) [33, p.46], Viet Nam may have to face the human resources shortage if the retirement age is not expanded [34, p.1].

Also, the retirement age reform is considered to improve the gender fairness between females and males in terms of retirement age. Specifically, it should be noted that the difference in retirement age was because of the female's physical condition and the duty to her family mission. Thus, the gap in retirement age of 5 years before the reform may lead to various ways of job discrimination for females [34, p.2].

Thus, to face these challenges, the latest reform has shown significant changes relating to retirement age. According to the Article 169 Vietnamese Labour Code 2019, from 01 January 2021, the retirement age of employees in normal working conditions is 55 years and 04 months for female employees, increasing 04 months every year, to reach up to 60 years old by 2035. However, this retirement age for female workers is still shorter than for males (up to 62 years old by 2028).

Generally, the regulation of the retirement age is reasonable and can respond to the current challenges.

However, it seems that the fairness in the current system just has its focus on females and males and does not pay attention to trans women. In other words, the fairness between transgender women and ordinary women is not mentioned in the current mechanism. Similar to the case of raising children under 12 month-year old of trans women workers, the question here is what retirement age will they be entitled to? In our opinion, because there is currently no legal procedure for changing sex information on legal documents, trans women still have to work as a man, up to 62 years old, to be retired.

As discussed above, Vietnamese labour law gives more privileges to female workers than males to create gender fairness because female workers have different physical conditions than males. Particularly, they must use hormones to maintain their female characteristics during their lives³⁵. Those things make them weaker and may shorten their life. Furthermore, after the sex transition, many parts of trans women's bodies shall have significant changes such as the face, skeleton, muscle, genitals and so on. At this point, trans women should be treated in the same way as 'women-born-women'.

Such matter is currently controversial around the world. For example, there was a case related to this issue in the United Kingdom, where a trans woman wished to retire early like any other woman (Case C-451/16). This case concerned MB, who was born a male in 1948 and married in 1974. MB began to live as a woman in 1991 and underwent sex reassignment surgery in 1995. In 2008, having reached the age of 60, MB applied for a retirement pension. Her application was rejected on the ground that she could not submit a full gender recognition certificate. MB did not hold such a certificate since, even though annulment of marriage was required for obtaining such a certificate under UK legislation. MB and her wife, however, wished to remain married for religious reasons. However, her application was rejected since she could not submit a full gender recognition certificate.

In summary, if trans women are not allowed to retire at an earlier age as 'women-born-women', they involuntarily have to work longer than what their new physical condition demands. This does not comply with the purpose of the law to assure gender fairness through understanding the gender conditions.

CONCLUSION AND RECOMMENDATIONS

Gender transition is no longer an impossible issue thanks to the development of society and the advance-

ment of medicine all over the world. Some developed countries' laws recognize that transitioning is legal, which means that the legal rights and interests of transgender and transsexual people after sex reassignment surgery will be protected by the governments and laws¹³. However, some countries still consider gender transition illegal and treat it as a crime³⁶.

Research on Feminist Legal Theory has shown a long history of feminism⁶. The feminists' claim for fairness on gender identity resulted in principled and pragmatic issues⁷. Throughout the Feminist's Legal Theory, the concept of 'woman' draws much attention in feminist activism. Although the issues relating to the rights of trans women remains controversial through many jurisdictions, the waves of feminism contributed to the legal process towards the high level of protection for women, especially trans women, without the concerns over biological characteristics and legal gender recognition.

There is a clear understanding in the Vietnamese legal context that trans women workers may easily become victims of discrimination because of the lack of specific regulations. It is worth stating that the gap of legal procedures and provisions related to gender recognition for trans women could be barriers preventing trans women from enjoying the rights of female workers under the Vietnamese Labour Code. Whereas the labour field has peculiarities, which requires the trans women workers' rights to be considered by other aspects more broadly. This is because that labour relation is primarily established on the ground of voluntariness, good faith, equality, cooperation, and mutual respect of each other's lawful rights and interests [18, art.7, art.15], and the protection for workers is seen as one of the labour law's key roles. In addition to that, as examined above, trans women have changes in their bodies and face the potential risks of health after sex reassignment surgery.

In reality, the problems that female workers have seen with harassment, parental leave, health, sexual characteristics are more likely to be posed for trans women workers. Hence, it is unjust for trans women who are excluded from the rights of legal female workers only due to the absence of legal bases of gender recognition for trans. Trans women workers should be entitled to enjoy the rights provided for female workers based on the respect of agreement and the acquired gender. Extending the scope of women workers' rights to trans women workers could provide practical and necessary protection for trans women workers to promote

the development of human rights generally and transsexuals' rights specifically.

For recommendations relating to caring for an under-twelve-month-old child, the authors suggest recognizing trans women as co-mothers, who shall have the right of raising a child under twelve months as a female employee in particular and other rights in general. This shall be a necessary step on the longer road for the lawmakers to take serious consideration on the accommodation of broadening variety of 'non-traditional families'³⁶. Regarding the retirement age, trans women employees should be granted the right to take retirement at the same age as female employees because of their new physical condition. Above all, guidance on sex reassignment recognition is urgent to legalize their new gender on documents.

This Article has carried out fundamental research on the theory of women's rights and practical problems posed if female workers' rights under the labour law have not been set out for trans women. However, it is necessary to conduct large-scale social surveys of trans women workers' experiences when they work with female bodies, female characteristics with male identity on legal documents. Additionally, research on the re-definition of female gender in the modern context as a basis for guaranteeing the legitimate rights and interests of trans women is one of the concerning issues.

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CONFLICT OF INTEREST

The authors declare that they have no conflicts of interest.

AUTHOR'S CONTRIBUTION

Nguyen Thi Hong Nhung is responsible for structuring and editing the article. Nguyen Thi Xuan Mai writes the discussion and conclusion. Tran Thien Trang writes the literature review.

³⁶Marriam Webster Dictionary defines this term as: a family that is not made up of one mother, one father, and a child or children. See more at [36].

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Bài nghiên cứu Quyền của phụ nữ chuyển giới từ góc nhìn của Luật Lao động Việt Nam

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TÓM TẮT

Sự phát triển của y học đã kéo theo nhiều vấn đề pháp lý cần được nghiên cứu và giải quyết đối với người chuyển đổi giới tính. Trong lĩnh vực lao động, vấn đề về quyền lợi của người lao động nữ chuyển giới (nam chuyển giới sang nữ) cần được xem xét theo hướng liệu lao động nữ chuyển giới có được hưởng các quyền và lợi ích như lao động nữ bình thường hay không. Thực tế, phụ nữ chuyển giới phải sử dụng hormone để duy trì các đặc tính nữ của họ trong suốt cuộc đời, điều này khiến sức khỏe họ yếu đi và tuổi thọ có khả năng bị rút ngắn. Hơn nữa, sau khi chuyển đổi giới tính, nhiều bộ phận trên cơ thể của phụ nữ chuyển giới sẽ có những thay đổi đáng kể như khuôn mặt, khung xương, cơ, bộ phận sinh dục, v.v. Chính vì những lý do kể trên, phụ nữ chuyển giới cần được đối xử phù hợp, giống như phụ nữ bình thường trong một số quan hệ lao động. Bài báo đề cập chủ yếu đến hai quyền cơ bản của người lao động nữ chuyển giới: (i) quyền nuôi con dưới 12 tháng tuổi và (ii) tuổi nghỉ hưu của lao động nữ chuyển giới. Bài viết được kết cấu thành ba phần chính. Phần đầu tiên nhằm mục đích nghiên cứu lại lý thuyết nữ quyền hiện đại về những người được thừa nhận là phụ nữ. Phần thứ hai tập trung vào việc xem xét quyền của người lao động nữ chuyển giới dưới góc nhìn của pháp luật lao động. Kết luận và kiến nghị của bài viết sẽ được trình bày ở phần cuối. Nghiên cứu chỉ ra rằng trong bối cảnh pháp lý của Việt Nam hiện tại lao động nữ chuyển giới dễ trở thành nạn nhân của sự phân biệt bởi thiếu các quy định pháp luật liên quan điều chỉnh. Lỗ trống trong thủ tục pháp lý về công nhận lại giới tính cho người nữ chuyển giới có thể trở thành trở ngại cho người nữ chuyển giới thụ hưởng các quyền lợi của lao động nữ được quy định tại Bộ luật Lao động. Tóm lại, nghiên cứu này là cần thiết, đặc biệt trong bối cảnh Việt Nam hiện nay đang soạn thảo Luật Chuyển đổi giới tính. Lý thuyết pháp luật nữ quyền và phương pháp phân tích, so sánh và tổng hợp các quan điểm pháp lý cũng được sử dụng để bàn luận các vấn đề trên.

Từ khóa: phụ nữ chuyển giới, giới tính, lao động nữ, luật lao động, lý thuyết pháp luật nữ quyền

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