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**Abstract**

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**Key Words:** Transgender Rights, Legal Framework, Social Practices. Discrimination, Gender Identity

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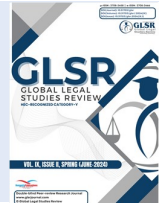
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Cite Us



## Title

### Transgender Rights in Pakistan: Navigating Legal Framework, Practices and Challenges

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#### Abstract

*Analyzing the philosophical foundation and practical realities of the Pakistani experience with transgender rights, this study aims to establish the successes, challenges, and potential directions for development. Over the last few years, the Pakistani legislators have enhanced the legal protection for Transgender Rights to a significant level. A landmark bill passed in 2018, the Transgender Persons (Protection of Rights) Act seeks to provide for the protection of the rights of the Trans populace. It would therefore be important to explore the real-life phenomenon of Pakistan's transgender persons, as a way of getting to know the application of the issues translated into real-life context. Regrettably, transgender people face prejudices, abuse, and social and employment ostracism in different settings at work, medical facilities, in their domicile, and in schools. People, and groups, both non-governmental and governmental, are dedicating their efforts towards solving such issues.*

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**Keywords:** [Transgender Rights](#), [Legal Framework](#), [Social Practices](#), [Discrimination](#), [Gender Identity](#)

#### Introduction

Transgender individuals are not a philosophy or a term but they are human like other people. Firstly, there is a difference between gender and sex. Sex is a biological difference between a male and female which is assigned at birth and gender is an identity that is given by society to people on the base of sex roles. Sometimes the gender of an

individual is different from their registered sex. So, some people change their identity, and some do not. Those who do not change their body have several reasons i.e. cost of operation, medical issues, and lack of support. Transgender identity was not recognized earlier but today it is widely recognized in the world.



Transgender individuals in Pakistan are regarded as a marginalized community because they face many challenges and discriminations in various forms i.e. they are called discriminatory language (Chakka, Khusra, and Hijra), challenges in ID card procedures, etc. They are not treated equally in society and their rights are also violated. However, the Constitution of Pakistan provides the protection of rights to all citizens including Transgender community.

Another main thing is respect and social acceptance of this community. There is a lack of social acceptance in Pakistan which leads to further discrimination, violation of fundamental rights, and harassment on the base of their identity. According to the Supreme Court ruling in 2009, families cannot take away the inheritance rights of Transgender individuals on the base of their identity but there is no proper action on this ruling. They are still facing these issues in Pakistan.

Historically, they have been treated very badly in society for many years. They are facing challenges in society many of them experiencing familial rejection, limited opportunities, and human rights violations. It's unfortunate that they often have to run away from home due to abuse and shame from family members who expect them to conform to traditional masculinity. Once they form their own communities, they may be coerced into engaging in dancing, sex work, or begging as a means of survival. The lack of protection and support from the legal system when they experience abuse is also distressing. It's truly saddening that even in old age; many hijras are cast out of their own communities because they can no longer support themselves.

A series of rulings passed by the Supreme Court from 2009 to 2012 has great attempt to recognize and empower the third gender. Almas Bobi the president of the Shemale Rights of Pakistan, and lawyer Aslam did some amazing work by filing a petition in the Supreme Court to address the mistreatment of transgender individuals (Rashid & Rashid, 2022). The Supreme Court's orders are a significant step towards recognizing the rights of transgender individuals in Pakistan. The court directed the government to prepare a framework to ensure their rights. The ruling that families cannot disown transgender individuals from their legal inheritance is a powerful statement. The NADRA will record the gender status of transgender

individuals on official documents because they face challenges regarding the identity card. The recognition of their right to vote and be included in the electoral list is also a crucial development.

However, it is important to note that the Transgender Persons (Protection of Rights) Act was enacted in 2018 and there are some changes have been made in recent years. The rape, verbal and physical violence, harassment, and discrimination against transsexual people were made with this act's aim to grant them legal personality and protect them. This is a crucial move to ensure that any moment the transgender are to be targeted because of the gender identification that they have embraced they should not be discriminated against when they are out looking for the basic needs of life such as shelters, jobs, health facilities, or schools. This study is motivated by the shocking discovery that in the twenty-first century, ways still do not have the fundamental rights of any other individual, although they reside in a country that has an Islamic base and human rights acts. Nevertheless, with reference to the TPPA 2018, the verdict has not been entirely forthcoming in determining whether or not the issues faced by the transgendered populace are effectively dealt with by the provisions of this statute law. Another important body that is created by the law is the National Council for Transgender Persons whose mandate is to protect the rights of the transgender and entertain complaints regarding their rights besides ensuring that projects for their support are implemented. Thus, through enforcing this institutional mechanism, the awareness about transgender rights, as well as regarding the establishment of an inclusive society is enhanced.

### **Statement of Problem**

A central problem in Pakistan identified is that human rights for transgenders are still not well endorsed and do not have adequate legal representation. This in turn develops a complicated issue that subsequently has significant impacts on the lives and opportunities of the transgendered society. They suffer indignities, prejudice, and prejudice which label them outcasts from mainstream society as they lack basic rights to basic necessities and opportunities in basic human needs, education, job, and health care. As a result, this exclusion perpetuates a cycle of marginalization, preventing them from living

authentically and flourishing within Pakistani society.

### Research Questions

1. What are the legal frameworks and policies in Pakistan that support transgender rights, and how effectively are they implemented?
2. How do societal attitudes and cultural norms in Pakistan impact the lived experience of transgender individuals and their access to rights and resources?

### Research Methodology

The Bumble Bee methodology is employed for the research on "Transgender Rights Theory and Practice in Pakistan." This methodology integrates various research methods, including qualitative approaches like interviews from some transgender foundations like the Sathi Foundation and literature reviews, to gather comprehensive data. As a result, the incorporation of qualitative methods enables the researchers to have a more understanding of the lives and struggles of transgenders in contemporary Pakistan. Secondly, it is important to note that there is secondary data derived from legal components such as statutes and policies that provide appropriate data for the research. There are some limitations that need to be mentioned here, the first one is that there may be limitations in terms of expenditure and the second one is the amount of time that could be required to carry out extensive interviews and extensive literature reviews. Literature review

The Article "Social Implications of transgender individuals (protection of Rights) Act 2018" by Muhammad Sharif in 2023 explores the implementation of the legal act which was passed in 2018. This act faces criticism from religious scholars. According to them, this act promotes the same homosexuality which is not allowed in Islam. This article described that this act creates a space of societal acceptance and social inclusion of transgender individuals. This study highlights the challenges which are faced by this act. This article does not explore how we can enhance the awareness among people to accept this transgender community (Sharif, [2023](#)).

The article "Measuring Attitudes toward Hijras in Pakistan: Gender and Religiosity in Perspective" by Humaira Jami and Anila Kamal in 2015 describes

the marginalized and stigmatized status of hijras in Pakistan. The goal was to develop a scale to measure attitudes towards hijras within the hijra community. It also aimed to explore how gender and religiosity influence these attitudes. However, it does not explain which specific strategies or initiatives in Pakistan are aimed at promoting comprehensive legal protection and social acceptance of transgender rights (Kamal, [2015](#)).

In the Article "Transgender community in Pakistan: A look into challenges and opportunities" by Komal Sabir in 2019 Dayani explains transgender rights in a cultural context. There are many numbers of cultures in the world that recognize the Rights of transgender community but in Pakistani Culture it is difficult to accept them due to their affiliation with Islam. This leads to various issues which are faced by transgender in Pakistan but this is one side, there are a number of people who break the social barrier and accept them. This article does not explore whether these rights are accepted in Islamic culture or not (Dayani, [2019](#)).

The article "Symbolic violence and social adjustment of transgender(s) in Pakistan" by Muhammad Abo ul (Rashid et al., [2022](#)) describes the life of the transgender community in Pakistan, how they live, and how they are treated in society. This article explored that Transgender not accepted by their own family and they leave their homes and join a transgender community that is supervised by a guru. According to them, they do not face any type of violence in their own community but outside the community, they face symbolic violence, etc. The article does not explain how we can raise awareness among transgender individuals. This is important, as many families treat them badly when they know about their gender identity from sources other than the individuals themselves (Rashid, [2023](#)).

The Article "The International Politics of Progressive Legislations: Pakistan's Transgender Persons Protection of Rights Act (2018)" by Panhwar, Bakhtawar in 2023 emphasizes that how conservative countries have passed progressive legislation. It explores the connection between domestic and international factors, such as political engagement and signaling. This article specifically looks at the Transgender community in Pakistan. In 2018, Pakistan's Supreme Court made a historic decision that was seen as a major step forward for the transgender population. It was recognized

globally as one of the most progressive laws for transgender rights. However, this article did not examine the role of transgender activism and community organizations in advocating for transgender rights. (Panhwar, [2023](#))

In the article "Gender Identity and the Issues of Acceptance in Pakistani Community" by Muhammad Umair Ali he explores the obstacles encountered by the third gender in Pakistani society, noting a lack of emphasis on their rights despite substantial debate on gender equality, which mostly targets women's issues. Cultural conventions, societal values, and religious beliefs in Pakistan give little recognition or approval to the third gender, resulting in widespread familial rejection and societal discrimination. State actors and government entities have failed to emphasize the inclusion of the third gender, leaving them excluded from critical services such as employment, healthcare, education, and legal identity. They frequently experience homelessness and are forced into sex work, which exposes them to serious health hazards. According to social constructivism theory, societal approval and strong social interactions can help people achieve higher economic and social status. (Ali, [2020](#))

In his article "Legal Rights of Transgenders in Pakistan: Theory and Practice (Case Study of Faisalabad Division)" by Muhammad Arslan, the author emphasizes the rights of persons in Pakistan belonging to the transgender population, spotlighting the practices. As Islam addresses that everything is low and everyone should be given equal rights, the transgender people of Pakistan are not even acknowledged either by the government or by society. The difficulties of the Transgender people in Pakistan are described in the paper based on the following areas of concern. Lastly, in light of the collected primary data, this research is able to conclude that the government has not adequately enforced laws meant to protect the rights of the transgender population. The author also calls for education, health care, and future employment for the Tomboys and transvestites in the country (Arslan, [2018](#)).

### **The Legal Framework of Transgender Rights in Pakistan**

All humans are born equal and basic rights are the same for everyone. When it comes to fundamental rights, these are the rights that are defined in the

constitution of the state and the state is responsible for providing these rights to every citizen equally. Our society prefers to accommodate only two genders. Many people in the society do not accept gender identities except from male and female. Transgender people have long sought to be recognized as a separate gender. Transgender people have fought social, political, and legal fights for recognition as a distinct gender in society. Transgender people are among the most marginalized groups in society. Neither the legislation nor society has had a soft spot for them. Ironically, the third gender is denied recognition and rights in developing countries. Transgender individuals have faced the issues of discrimination, sexual harassment, and social acceptance for many years. We analyze the different laws that provide legal guarantees to transgender people.

### **Legislative Progression**

Pakistan's legal framework for transgender rights has undergone significant advancements in recent years but still faces challenges and gaps.

### **Transgender Rights and the Constitution of Pakistan**

Transgender people have all the rights that are entitled to in the constitution of Pakistan. The Chapter of Fundamental Rights provided the legal recognition of transgender rights. The Constitution of Pakistan provides security to every person, article 9 states that "No person shall be deprived of life or liberty saved in accordance with law". Article 14(1) of the constitution provides the protection of human dignity, article 14 states that "The dignity of man and subject to law, the privacy of home, shall be inviolable." Article 25 (1) states that "All citizens are equal before the law and are entitled to equal protection of the law." This article provides the protection before the law to all citizens including the transgender people. Article 25(2) states "There shall be no discrimination on the basis of sex." This article prevents transgender people from all forms of discrimination (The Constitution of the Islamic Republic of Pakistan, [1973](#)).

### **Supreme Court's Series of Ruling**

In a historic decision in 2009, Pakistan's Supreme Court acknowledged the rights of transgender people and instructed the government to take steps

to preserve their rights and ensure equal treatment under the law. The Supreme Court, for the Social Justice of the Transgender, was acting proactively through *Suo Moto Contempt on the Grounds of Prejudice and Violence against the Transgender People*. This forms the basis of why many lobby for laws that will seek to protect the rights of Transgender people such as rape and Discrimination laws, education bills that address access to education by transgender, health bills regarding health services to Transgender and employment, and equal opportunity legislation for Transgender. The verdict pointed out Transgender and advocated for societal and new economic marginalization of the people and called for measures to take place.

In the decision from the Supreme Court of Pakistan on November 4, 2009, the government was ordered to create legislation of nondiscrimination for all forms of government against Transgender. The clarification made in the Second Order of the Supreme Court on November 20, 2009, was that the rejection of a transsexual person for any reason does not exclude him/her from the right to family inheritance. Transgenders were given legal rights to enjoy their civil liberty on 11 October by the Supreme Court, the court ordered NADRA to issue passports and ID cards with transgenders' pictures.

### **Implications of SUPREME Court Ruling**

Pakistan's oppressed minority gets the right to vote now. The court decision grants vote to Pakistan's long-oppressed minority after decades of persecution Transgender people of Pakistan now find a new meaning in voting. On November 14, Pakistan's Supreme Court ordered the electoral body of the country to collect data from the Transgender community in the country and integrate them as voters.

The consequences of the Supreme Court ruling were rather profound. These are:

- This verdict is a remarkable stone in a long journey that brings acknowledgment towards the rights of the transgender in Pakistan. It acknowledged their rights to be mainstream citizens like any other with constitutional provisions against their being neglected or excluded.
- The decision required the government to regard the problems of the people of the third

sex and make them equal before the law. It reiterated the government's to protect and fulfill the rights of Transgender nationality person in every aspect of their lives.

- The verdict sparked legislative measures to protect transgender rights.
- The verdict increased awareness and activism for transgender individuals in Pakistan, addressing their issues and needs. It stimulated public discussion about transgender rights and promoted a better understanding of gender diversity and inclusiveness.

### **Transgender Person Act, 2018**

On May 8, 2018, the National Assembly of Pakistan adopted the Transgender Persons Act 2018. The Act legally recognizes transgender people and forbids discrimination and harassment. It also placed obligations on the government to provide for the well-being of the community. However, subsequent challenges to the Act, including proposed modifications and a Federal Shariat Court decision, have raised concerns. The court's decision to invalidate provisions of the Act based on Islamic principles has provoked outrage and jeopardized the rights and protections of transgender and gender-diverse people in Pakistan. The Act's effectiveness has been questioned due to the lack of sanctions and enforcement measures, which hinder substantive equality and protection of transgender people.

Key provisions of the Transgender Persons (Protection of Rights) Act, 2018

1. Definition of a transgender person
2. Recognition of gender identity
3. Protection against discrimination
4. Right to education, employment, healthcare, and inheritance
5. Establishment of safe houses and rehabilitation centers
6. Offenses and penalties

### **Definition of Transgender Person**

This act defines the term transgender person because there was no proper definition of transgender. According to this act, Transgender Person is a person, who is,



"Inter-sex with a mixture of male and female genital features or congenital ambiguities" (National Assembly of Pakistan, 2018).

People are often confused with the intersex and transgender identity. These are two different terms but often intermix due to misunderstanding or misrepresentation. Intersex people are born with varying sex characteristics. Individuals with unique sex development traits, such as sexual anatomy, reproductive organs, or chromosome patterns, may not meet the traditional categorization of male or female. Intersex is not the same as having a specific gender identity

### Recognition of Gender Identity

The recognition of gender identity within Pakistan's legal system, notably as specified in the Transgender Persons Act of 2018, represents a significant step toward accepting transgender people's rights and dignity. This section ensures that Transgender individuals have the right to recognition of their gender as they choose, thus asserting the independence of will, and recognizing the inner feeling of gender identity. Before, members of the Transgender community in Pakistan also had limited opportunities to exercise their right to receive legal recognition of their gender identity, which is why they constantly became outsiders, discriminated against, and deprived of their rights.

### Protection Against Discrimination

In line with the Pakistani legal system, the Transgender Persons Act 2018 offers a framework for eradicating discrimination against the transgender community while also addressing issues related to transgender individuals and prohibiting discrimination against these people in a number of spheres. This legislation specifically banned discrimination on the basis of gender identity a step that has brought lots of differences in the recognition of basic rights for Transgender. The fundamentals of employment are one of the aspects the Act is most centered on. Transgenders are often discriminated against in the workplace and denied equal opportunities and equal wages, but job offers them fewer choices, worst wages, and unsuitable working environments. The Act prohibits employment discrimination of the transgender in recruitment, employment,

promotion, dismissal, demotion, removal from a position of employment, and a reduction in rank, shift, or salary; and guarantees equality of employment opportunity and equal treatment of the transgender in the workplace.

### Right to Education, Employment, Healthcare, and Inheritance

This legal protection of Transgender people especially in Pakistan through the Transgender Persons Act of 2018 protected the rights of the Transgender in education, employment, health care, and inheritance which is in the process of social integration. Firstly, the Act guarantees equality in accessing education for transgender individuals and provides an opportunity to learn without barriers which has been a common issue for them in the past.

Secondly, the legislation recognizes the right of Transgender persons to be given an equal chance at employment as any other candidate. Gender identity discrimination in employment during recruitment, hiring, promotions, and dismissals is prohibited by the Act in clear terms. Employers need to ensure that transgender people are respected in the workplace and can do whatever they want without these barriers or discrimination against them

Furthermore, The Act mandates the delivery of healthcare services that are fitting to the needs of Transgender, like the use of a competent hormone and sex-change operation. It is imperative that various healthcare givers do not discriminate the transgender people and should treat them with an understanding that they are in search of healthcare that is specialized to cater to their unique needs. This clause aims to guarantee that a Transgender person has to get the vital therapeutic treatments that will endorse his/her gender identification as well as enhance health. As the preference of most healthcare services is with the provisions in the Act enhance physical and emotional health allowing the now accepted services can enable the Assisted Transition services clients to live true to themselves without prejudice.

Finally, The Act guarantees that the property rights of any person who has undergone a Gender Confirmation Surgery 'transgender person' shall be protected under the law regarding their inheritance. This section initiates the exploration of how legally,

socially, and culturally, transgender individuals have been systematically excluded from the inheritance of family property and thus have been denied equal access to family assets and resources. Thus, the Act empowers a group of people who were once marginalized and excluded; the Act also grants those who identify as transgender the ability to inherit money and property which aims at creating their economic security and financial freedom.

### **Establishment of Safe Houses and Rehabilitation Centers**

The Transgender Persons Act is required to introduce providing protected environments including safe homes and rehabilitation centers. The provision of safe houses and rehabilitation centers in accordance with the Transgender Persons Act in Pakistan is another critical area of importance to address the emerging needs of the transgender population which is vulnerable to multiple risks and hazards. Many shelters offer refuge to transgender persons who are vulnerable to physical attacks, cruelty, or even lack shelter since they are viewed as societal pariahs. These facilities produce a safer environment in which residents have access to a place where they can escape from physical harm or emotional distress.

### **Offenses and Penalties**

The Transgender Persons Act of 2018 of Pakistan is an all-encompassing policy in which rights of the Transgender people are secured whilst legal aid and penal consequences for trans violations are outlined as well. The Act consciously describes many types of abuse toward transgender individuals, such as physical, sexual, and emotional abuse and violation of rights and discrimination due to the identification of gender. Some sections of the Act specifically state that any form of violence, assault, or bodily harm against a transgender individual based on their gender identification is unlawful. This section acknowledges the fact that there is a high level of violence and hate crimes in the lives of transgendered people and calls for the fight against such anomalies to be pursued by the law. Likewise, any form of sexual assault or harassment of any transgender person is prohibited and attracts stiff penalties under the Act.

### **Implementation**

Various provisions were made for implementation of the Act in which the government was allowed to make rules and executive orders within two years of the Act's existence that are harmonized with the Act. Nevertheless, the Act whenever slight changes in political leadership and because it was a private members' bill rather than a policy of a major political party, seems to have elicited a lot of docility. As such there are still pending issues awaiting implementation because up to now there are no marked rules or executive directives issued to govern Government entities.

### **Role of Human Rights Ministry**

The human rights ministry plays a leading role in the implementation of Transgender Act 2018. It ensures the protection of Transgender Rights to all departments like the police, NADRA, Capital Development Authority (CDA), and the Election Commission of Pakistan (ECP). It established Pakistan's first Transgender Protection Center, offering rehabilitation, referral services, psychiatric counseling, and legal support to transgender individuals.

### **Initiatives by NADRA**

After the Act was implemented, the transgender community approached NADRA to register. However, because no executive order or revision to the NADRA Ordinance 2000 was supplemented by the Act, NADRA continued to require medical examination for registration in accordance with the previous policy.

Transgender face difficulties in the registration of ID cards because for ID cards parents' names are required. However, after the act, Guru goes with them and mentions his name in the parent's category. X is mentioned in the corner of gender instead of gender identification as Trans man, Trans woman, or intersex. We feel that this is a violation of the freedom to self-perception and acknowledgment of 'third gender' rather than 'transgender'.

### **Healthcare Policies**

After Transgender Act 2018, for the first time, Pakistan has expanded a government health

insurance system to include transgender persons, in an effort to eliminate prejudice in access to care, according to an official. All transgender persons are now entitled to medical treatment, including reconstructive surgery, under the initiative, which was established to provide healthcare to Pakistan's underprivileged and marginalized groups.

Pakistan's Prime Minister Imran Khan launched a health scheme for the transgender community in the Muslim-majority country. "Today, the cards we have given out is the first acknowledgment and a great step towards the transgender community, which had been long ignored," (Al-Jazeera, [2019](#)).

### Criticisms

Another initial issue is the amendment to the Transgender Act that has been animated and caused by debates and opposition to the law. As used in the case of Pakistan, the Act continues to stir up controversy the most, especially from some members of the parliament and some Islamic scholars who may feel that the Act allows for changing of gender goes against the teachings of Islam on the propriety for transgenders. The Federal Shariat Court of Islamabad held that some of the provisions of the Act as unavoidable violations of its own notion of Islami Shariah. It continued the debate on the law and how a certain law is to be done or applied in society and this was a very serious issue with regards to what the society wanted and what was being given to it by its laws. Although there are some voices within the country that are calling for a stoppage to Transgender Discrimination while at the same time monitoring religion is addressed as well. Yet there appears to be a clear divide between people when it comes to the subject and opinions are polar, especially on this. Critics also say that the Act is against the culture and norms of Islam and to this, the observation made is not valid. In their view is equally powerless against homosexuality and is a bill to safeguard the gender of Trans people which according to human rights is equal.

### Ground Realities and Practices

1. Abuse, violence, torture, and Harassment
2. Access to justice
3. Of Family Life
4. Gender Identity, and National Identity Cards
5. HIV, AIDS, and the Transgender Community

### 6. Intra-Community Conflicts and Class Differences

#### Abuse, Violence, Torture and Harassment

Transgender individuals continue to experience discrimination and assault at the hands of police and government authorities. Furthermore, several activists have been kidnapped, beaten, and raped for speaking out against the crimes perpetrated upon them. People who identify as transgender are generally shunned in Pakistan. Because they are social outcasts and are despised by their family, many transgender people wind up working as sex commodities or as street performers. Individuals who do not identify as male or female have fewer options for nourishment.

#### Access to justice

The transgender community faces daily assault and persecution in Pakistan. Recent years have seen several examples of honor killings, rape, extortion, sexual harassment, assault, and torture. Transgender persons who report crimes are seldom taken seriously by the authorities, and the offenders are rarely prosecuted. Police harass, humiliate, and make sexual approaches to complainants, which does not assist the situation. A complaint is rarely filed, and they maintain an indifferent attitude. Transgender people typically avoid reporting crimes due to fear and intimidation from the police. The police's image is tainted in the community due to their history of profiling and harassing transgender individuals in public settings. Due to poor prosecution and lengthy case processing, many individuals prefer not to pursue legal action.

In a recent case, four persons, three of them transgender, were detained for assaulting the Gujarat Police Station. According to reports, despite a settlement with police for the mistreatment of one of their community members, the transgender attacked the Saddar police station in Kharian, Gujarat. The incident occurred when police stopped and searched a transsexual Hira and her male friend in Kharian. (Today, [2024](#)). Transgender people suffer hostility from law enforcement and the justice system. This can lead to unequal treatment, unwillingness to disclose crimes, and a lack of trust in the legal system. Of Family Life

The family institution has a significant impact on the marginalization of Khawaja Sara and transgender individuals. Intolerance for non-conforming gender attitudes, identities, and behaviors can lead to violent attempts to preserve and reinforce the heterosexist norm. Families struggle to grasp their children's gender identification and behaviors due to a lack of cultural and societal examples. Instead of shielding children from societal abuse, families often ridicule, beat, and expel them from their homes.

### **Gender Identity, and National Identity Cards**

The Constitution of Pakistan does not discriminate against any citizens based on their race, religion, caste, gender, residence, or place of birth. However, it took significant effort to recognize the transgender community as a "third gender" and ensure equal access to state laws and privileges. On November 20, 2009, the Supreme Court recognized the transgender community in Pakistan, marking a significant milestone in their history. This class of society has been neglected due to gender disorders in their bodies. They are entitled to all the rights granted by the Constitution, including inherited property rights. However, their families have sometimes disowned them, denying them these rights. Existing rules do not allow for the deprivation of the right to inherit property.

### **HIV, AIDS, and the Transgender Community**

Transgender people faced high levels of stigma, discrimination, gender-based violence and abuse, marginalization, and social exclusion, which limited their access to resources, harmed their health and welfare, and increased their risk of HIV. National AIDS Control Programme statistics alarmingly showed that HIV was prevalent among 27.2 percent of the people injecting drugs and 5.2 percent among transgender sex workers (news, [2017](#)). Being in the sexual minority, transgender persons are especially prone to HIV/AIDS infections, and the government must act to protect them. They wanted positive HIV diagnosis and effective prevention services which should include, testing, counseling, and treatment. The risk was commonly seen in terms of sexual behaviors that included unprotected anal intercourse with a partner who is HIV positive, however, there were

other structural factors that contributed to the vulnerability of the community to the illness, but there have been few efforts to resolve these issues.

### **Intra-Community Conflicts and Class Differences**

Most Transgender people live in poverty and they are illiterate, treated, and discriminated against such that they are hindered from continuing education and getting proper jobs instead in order to survive they are forced to do dancing, begging, or sex work. Overlapping community power sharing in the Transgender culture is attributed to the roles played by Gurus leading to internal conflicts between the communities. Chelas are usually followers of a given guru hence when gurus are many, they fight over availability and distribution of resources. The same is true for a guru and his dera because cash inflows from loyal and economically productive chelas are vital in the success of the entity.

### **Challenges and Controversies**

In Pakistan, the transgender community suffers numerous challenges. Transgender identity is regarded as taboo, and people tend to avoid them without understanding their issues.

There are many challenges to transgender individuals, some are:

1. Discrimination in employment
2. Healthcare barriers
3. Violence and safety concerns
4. Legal recognition and documentation
5. Economic Disparities
6. Education Discrimination
7. Family Rejection
8. Social stigmas
9. Barriers to participation in public life

### **Discrimination in Employment**

The right to work is a fundamental right under the Pakistani Constitution. The Transgender Persons (Protection) Act emphasizes that everyone, regardless of gender, should have access to work opportunities to support them. However, transgender people in Pakistan are unable to find work after transitioning. Transgender individuals often suffer job security issues if they openly discuss their transition process. While this recognition benefits the transgender community's

financial needs, social isolation takes time to adjust in concert with societal shifts in perceptions. To truly be inclusive for transgender employees and other excluded populations, employers must not only create a diverse workplace, but also ensure fair treatment of all workers in terms of opportunities, incentives, and daily experiences.

### Healthcare Barriers

Transgender people face considerable health disparities across various domains. Due to sex work, transgender people suffer from more chronic diseases and have higher rates of health issues related to HIV/AIDS, substance abuse, mental illness, and sexual and physical violence, as well as a higher prevalence and earlier onset of disabilities that can lead to health problems. Real or perceived stigma and discrimination in biomedicine and health care services, in general, may have an impact on transgender people's desire and capacity to receive adequate care. Transgender people frequently require medical procedures like hormone therapy or surgery. The most significant barrier to safe hormonal therapy and competent general medical care for transgender people is a lack of access to care.

### Violence and Safety Concerns

The members of the Transgender group face severe violence more than at any other time in the past. This is sad since the occurrences and homicides in the community have risen repeatedly, however, the new violence that comes every day goes unnoticed making transgender individuals socially invisible. The families of the homosexual people rejected them but expected them to financially support the family. Being socially marginalized and due to the vulgar means of livelihood that they have to resort to, transgender people are vulnerable to attack. As for the structure of representation, the common ground that transgender women, in particular, group was to defend and survive. This is due to the fact that Transgenders are discriminated against and this leads to most of them working in very risky places and conditions. Their clients or sex partners feel that it is alright for them to sexually abuse a lady who is transgender. Consequently, when these ladies seek their services, they invite their friends over only to be gang-raped by the men. Trans women experience high levels of emotional distress

and mental illness as a consequence of these abuses. To deal with these facts, the survivors rely on substances such as drugs or alcohol or practice self-harm.

In addition, the biological families that the transgender individuals are obligated to support are documented to use coercion, force, and physical punishment on the victims. They are forced to be in marriage against their wishes and physically and emotionally abused as evidenced by various studies by organizations. The saddest thing I found out is that the abusers are taken by police, yet the biological family pays their dues to be set free.

### Legal Recognition and Documentation

Each day, transgenders across the globe are subjected to harassment, rights abuses, and various forms of violence, including murder, whenever their identification documents do not match their current sex. To prevent these abuses and uphold the rights of and ensure the safety of those of any gender identity, about twenty countries around the world, most of them in Central and South America and Europe, have passed legislation enabling people's self-identification of their gender, thus permitting an easy legal transition.

The Federal Shariat Court upheld this claim and struck down sections of the law, arguing that "according to Islamic injunctions as laid down in the Quran and Sunnah, the gender of a person is subject to the biological sex of a person, therefore, the gender of a person must conform to the biological sex of a person." (Team, 2023)

### Economic Disparities

Transgender people in Pakistan experience considerable economic issues because of systematic discrimination, social isolation, and a lack of opportunity. The historical cultural stigmas and biases against transgender persons significantly limit their capacity to find official employment, forcing many to turn to informal or marginalized sectors such as begging, sex work, or performance arts. This community often has little turnover and job insecurity meaning poverty and volatility are persistent. Transgender people are likely to be poorly educated due to discrimination such as bullying, harassment, and exclusion they face in school which in turn results in a lack of

employment. Education and occupational training discrimination Transgender persons are discriminated against at the workplace or during the process of seeking job opportunities; employers are reluctant to offer positions to such personnel because they do not want to be associated with them due to the consequences they may face from the public.

### **Education Discrimination**

According to Article 25 A of the constitution of Pakistan "Right to education is state that The State shall provide free and compulsory education to all children of the age of five to sixteen years in such manner as may be determined by law." (The constitution of Islamic republic of Pakistan, 1973)

Economic constraints and societal taboos pose additional educational challenges for Pakistan's transgender community. Transgender activists strongly advocate the Right to Education, which declares that every kid aged 5 to 16, should have access to a free education. It is a fundamental right of every kid, regardless of ethnicity, gender, or status. For this reason, the transgender community as a vulnerable segment of the Pakistani population cannot be deprived of basic universal human rights for free and quality education for children in Pakistan as the government of the country promised. Once they are provided with such necessities as free and quality education and other aspects that encourage their enrollment and participation in the education needs of that country, they will be accorded their basic rights besides regaining the respect they deserve in the society where they are most discriminated against.

### **Family Rejection**

Many Transgender people hide their sexual orientation from their families for fear of abuse or violence. Transgender individuals typically face isolation from their family and communities from a young age, leading to limited economic prospects outside of sex work in adulthood. Families who had concerns and conflicts about their children's LGBT+ identity believed that the only suitable way for their LGBT children to survive in society was to assist them blend in with their heterosexual peers. As a result, some families prohibit the company of LGBT friends and the use of such resources. So, when these families restrict their child's access to LGBT friends and resources, they are demonstrating care

and concern. Families feel that taking measurements for transgender children can improve their quality of life. However, these actions have a negative rather than good impact on adolescents who like their parents. When children witness their parents' attempts to force them to change, they may develop a negative attitude towards them. Expulsion from the house increases vulnerability to abuse, assault, and drug use.

### **Social Stigmas**

Transgender face significant social barriers as a result of societal stigmas, legal obstacles, and prejudice in Pakistan. Pakistan's cultural values are significantly impacted by conservative thinking, which leads to the marginalization and exclusion of transgender persons. This marginalization begins early in life, with many transgender people facing rejection from their families and abuse from society, which leads to social isolation and mental health issues. The absence of family support frequently leads to homelessness and a reliance on community networks, such as the Transgender community, for survival and social acceptance. In educational settings, students who are part of the transgender population face being harassed and left out, which prevents them from following their education. This educational exclusion consequently reduces employment prospects. Social prejudices in Pakistani society, powered by religious and cultural conservatism, only intensify the problems of Transgender people. Experts believe that religious teachings and community representatives have learned misconceptions about the transgender population and their rights, affecting the general population and norms.

### **Barriers to Participation in Public Life**

Transgender individuals face different barriers to participation in daily life activities due to a lack of societal acceptance and persistent cultural values in Pakistan. Political engagement is another area where transgender people face significant challenges. Regardless of a historic Supreme Court ruling in 2009 which legalized transgender individuals' Right to Vote and the inclusion of transgender candidates in elections, practical political participation is still limited but in the 2024 elections, a Transgender candidate activist "Nayyab Ali" first time in the history of Pakistan took participation for their rights and to secure a seat in

parliament. "Participation in political and public life is a critical element of socially inclusive development, along with the realization of human rights," said Nayyab Ali, the focal person of APTEN in Punjab and a national assembly candidate from Okara (Tribune, [2018](#)). Transgender people frequently face assault, intimidation, and a lack of support when they try to exercise their political rights. Conservative beliefs dominate the political scene, marginalizing transgender voices and making it harder for transgender people to fight for their rights or be represented in decision-making processes.

## **Conclusion**

Nevertheless, there have been various attempts at ensuring that Transgender persons in Pakistan have access to constitutional rights. The subcontinent's gender identity discrimination starts with colonial regulations, hence equality as a right remains a primary one. Therefore the problem seems to prevail in Pakistan. However, Pakistan's way of solving this problem is wrong. The Pakistan Supreme Court and Parliament decided what was apparently equal victory was more important than justice and equality, it should have been the case. Violations of equal rights remain widespread among transgender citizens, and cannot be blamed for lack of meritocracy in the state. This is the only chance for their concerns to be addressed correctly. The Supreme Court Orders were the initial and significant triumph in the long and arduous process of educating Pakistan about the rights of the transgender community. This partly meant that the Orders were legally acknowledging the existence of transgenders, brought some positive changes with regard to the policy to transgenders, and provided a precedent for future transgenders to approach the courts. They also play important roles in impacting the public discourse when it comes to the

rights of transgender people. Thus they raised the issue of being Transgender to another level of public discussion that would pave the way for future legal amendments or, in the best way possible, a positive shift or change in society's attitudes towards Khawaja Siras and Hijras. However, in the recently passed Supreme Court Orders there were some basic mistakes done in the question of Gender identity of the Transgender people and they have used some wrong colonial terms for the designation of the Gender of the Transgender people. The Orders did not meet the expectations of an autonomous, equal, and democratic society that respects human freedom and rights, particularly in the use of language that focused on the disorder and disability and the convenience that transgender people posed when it came to particular jobs. The impetus created by the Orders also enabled the passage of the 2018 legislation, which addressed several issues with the Supreme Court Orders. These reform initiatives had a beneficial impact, as seen by the inclusion of transgender candidates in the 2024 general elections. However, these gains have been modest, and numerous issues and failures endure. There is a need to modify the inheritance law and create an effective regulation for sex-change surgeries, as well as aggressive measures to influence social perceptions of transgender persons and improve their treatment by government authorities, particularly the police. There is an urgent need for persistent efforts by the federal and provincial governments to ensure appropriate implementation of these changes, which have the potential to gradually enhance the social and economic standing of transgender individuals in Pakistan. Otherwise, transgender persons in Pakistan would experience stigma, discrimination, harassment, and violence, and the government would continue to fail one of its most vulnerable and marginalized communities.

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