



LEGAL ANALYSES ON RIGHTS TO TRANSGENDER: A CASE STUDY OF PAKISTAN

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ABSTRACT

On several occasions, the Islamic Republic of Pakistan has struggled to provide functional parity to its citizens. This article analyses Pakistan's legal and regulatory environment to assess the transgender community's right to equality. By reviewing at the Supreme Court of Pakistan's interpretation and rulings on the Transgender Persons Act of 2018. Pakistan, according to the article, still lacks a foundation for substantive equality. The state must facilitate the transgender community integration, at least in part, via assenting acts on the part of the community. Transgender people can only be regarded if they are treated equally. The qualitative research methodology has been applied to the following article.

Keywords: Right to transgenders, Transgender Persons Act of 2018, UNDP, Pakistan's legal framework.



1. Introduction

Transgender persons have a long history of being misunderstood. People who identify as transgender have a distinct culture, sense of identity, and a long history. Since the dawn of human civilization, transgender persons have endured prejudice and persecution. The World Health Organization (WHO) estimates that *"transgender an umbrella word for humans whose gender identification and manifestation no longer correspond to the norms and expectations historically associated with the genders given to them at birth; it includes people who are transsexual, transgender, or in any other situation labelled a gender non-citizen."* The Transgender Persons (Protection of Rights) Act (Act, 2018) was passed by the government of Pakistan in May 2018, protecting transgender people's rights while also providing relief and rehabilitation.

People whose sexual characteristics and identities differ from those generally linked with sex at birth are referred to as *"transgender."* The rights of transgender persons are unavoidable; nonetheless, they are frequently ignored outside of the spotlight. They are not given job priority or a high reputation in the community. The twenty-first-century international state system aspires to ensure that transgender people are recognised, accepted, and given full civil, political, and natural rights as a third gender. The parliaments of the Islamic Republic of Pakistan (Pakistan) have passed legislation that adheres to jurisprudence and human rights principles. Any or all of a person's birth rights are referred to as human rights. The right to a good life, the right to a fair trial, the right to equal education, and hence the freedom to own and pass property should all be included in transgender people's human rights. They're used for a variety of events, including birthday parties, Eid festivities, and wedding ceremonies. According to recent studies, Pakistan's transgender population is increasing, with one-third of the country's children expressing satisfaction with their particular sex or transgender identity (Saddique & Cang, 2017).

Identifying transgender or third gender is unbearable to their families; they feel discredited and wish to murder them since they perceive them as burdensome. Even though this is a common occurrence, transgender people face prejudice in various situations, including their homes, schools, universities, institutions, and social media platforms.

Articles 4, 9, 25, 26, and 27 of the Constitution of Pakistan, 1973 state that

"every individual has the right to be treated in accordance with the law," that "no one shall be deprived of life or liberty," that "all citizens shall be treated equally," that "no one shall be discriminated on the basis of sex," that "all citizens shall be treated equally," that "no one shall be discriminated on the basis of sex,"



and that no one shall be discriminated; however, transgender people's rights are still being infringed in every aspect of their lives.

In 2017, Member of Parliament Senator Babar Awan introduced the 2018 Bill in parliament. The bill's introduction outlined how many different stakeholders collaborated to bring the law's final version to fruition. Members of Parliament from all political parties, feminist groups, and civil society allies participated, as did the UNDP, the National Commission for Human Rights (NCHR), Federal Ombudsman Task Force on Transgender, NGOs working on gender and related issues, and the Council for Islamic Ideology (CII). The bill to address the Khawaja-Sara community's concerns took almost a year to prepare, and it was finally approved in May 2018.

The government is required by law to establish designated safe zones with medical and educational facilities to be free of harassment. The time has come to do something for the welfare of this community, as stated in article 1 of the Universal Declaration of Human Rights (UDHR), "*All human beings are born free and equal in dignity and rights*" (UNGA [General Assembly], 1948). To summarise, legislation is being implemented in Pakistan to defend the rights of the third gender in terms of having equal legal standing before the law. The previous decade's legislation is entirely consistent with international law and prohibits all forms of discrimination based on sex, gender, or race. In June 2021, the Punjab government made the initiative to create schools for transgender students, which is admirable. It would not only protect Pakistan's constitution guaranteed right to education, but it would also increase professional options and contribute to the decent quality of life that transgender individuals so desperately desire. The study's main aim is to explain transgender community rights in the light of Pakistani laws.

2. Research Methodology

Looking at the parameters for the purposes of this study, the research involved or planned for research focuses on a variety of resources. This research strategy was chosen in light of the given objectives to have more accurate and rich analyses of the study research. Secondary data that is easily accessible has been extensively used. The information was acquired through secondary research, which included outlines and notes from several newspaper articles and the internet. Different journals, books, reviews, articles, treaty agreements, public documents, norms, legal maxims, and precedents were also considered and recorded as needed. Furthermore, qualitative methodologies are used in the research strategy. Because this is a library-based study involving many publications, articles, international journals, reviews, and published papers, these research approaches were



applied. Internet sites and international books compiled from web pages are the key sources of data collection.

3. Historical Background of Transgender Marginalization in Pakistan

Transgender people face prejudice and are marginalized in society all across the world. The degree to which people are marginalized varies depending on their location and country. In a third-world country like Pakistan, transgender people, often known as Hijras, was no better until the 7th of March, 2018, when the Pakistani Senate passed the Act, 2018. The bill results from decades of marginalization and maltreatment of transgender persons.

During the Mughal Empire, transgender (Hijra) society had an elevated and notable social status, which is why Pakistani Hijras associate and feel nostalgic about the times and prestige of Hijras in the Mughal courts, referring to those times as a golden period for transgender people, eunuchs, and Hijras. In ancient India, eunuchs and transgender persons established and ran empires like the Dehli Sultanate in the 13th century. European tourists to the region attest to this. Marco Polo noticed this in his book on his expedition to India in the 1280s and wrote about it (Abbas & Pir, 2016).

Transgender people and Eunuchs were known as Khawja-Sara during the Mughal Empire in India, and their job was to aid and guard the Mughal royal family's women. They wore turbans and male clothes (Abbas & Pir, 2016). Transgender people and Eunuchs were known as Khawja-Sara during the Mughal Empire in India, and their job was to aid and guard the Mughal royal family's women. They wore turbans and male clothes (Abbas & Pir, 2016). Malik Kafur, who served as a commander in Alauddin Khilji's army and was devoted to him, was one of several transgender people in high positions at the period (Stawart, 2012).

Ikhtiar Khan was a well-known lawyer even during the reign of Mughal emperor Jahangir (Pamment, 2010). Firoz Shah was another notable transsexual who rose to the position of Akbar's Mansabdar during Akbar the Great's reign, and a governmental region named for him, Firozabad, was established (NIC Firozabad).

Until the British acquired administrative control of India and colonized it, the Mughal Empire vanished, and eunuchs and transgender persons found themselves on the margins of society when the British established the Criminal Tribes Act, 1871, a particular statute that fully circumvented the Indian Penal Code (IPC). In order for an offence to be recorded



under the Indian Penal Code, the charges against the accused must be proven beyond a reasonable doubt in a court of law (A. Sinha).

On the other hand, the Criminal Tribes Act specified that particular tribes and groups were deemed criminals from birth. In 1897, the Criminal Tribes Act was amended. The 1871 Act under this proposed change, eunuchs and registered transgender people could be imprisoned at any time without a warrant, and they could face harsh punishments such as up to two years in prison or acceptable—British policies such as these marginalized the trans community. As time went on, the damaging shame associated with transgender people grew more robust, fuelled by social and cultural critique and due diligence. The transgender community was pushed to the margins of society, eventually reducing them to working as sex workers, panhandlers, or dancers. Following the 1871 British Criminal and Tribes Act, various scare stories about eunuchs and transgender people arose, and the transgender population is still viewed with suspicion in modern India and Pakistan (Hinchy, 2013).

4. The Right to Equality under the Constitution of Pakistan

Article 25 of Pakistan's 1973 Constitution establishes equality. The article purports to give citizens with both formal and substantive equality: the former since it recognises all "citizens" as equal before the law and opposes sex refinement and the latter because section 25(3) allows for constructive insight for the benefit of women and children. Positive discrimination is permissible because children and women are regarded the weaker member of society and the state handles them in an authoritarian manner.

Given this section's gender and sex-based origins, it's no surprise that transgender people have been subjected to appalling treatment since the British colonialists landed on the Indian subcontinent. The community's humiliation, which dates back to colonial rule, generated a climate that remained even after Pakistan was constituted, results in the public death of transgender civics. After nearly a century of persecution and abuse, the transgender community may finally provide additional defence on behalf of the state.

4.1. Way to fast Law-Making Rights

Transgender people have taken steps to frame their congregation as a political constituency with the help of non-governmental organizations (NGOs). They have been able to campaign for the passage of legislation protecting their identity to combat discrimination, as described in the preceding section. The passing of "the Act, 2018" by Pakistan's Senate took nearly seven decades. One of the most difficult challenges the transgender community



faced in this regard was defining the statutory language for the legislation. Before the turn of the century, there were no precedents or transgender-specific legislation in the world. Despite the fact that there are countless examples of identical legislation around the world, they are all relatively new. They don't have enough time to explain the laws' legal implications and the constraints imposed by the language of the law.

The traditional character of Pakistani society is a significant impediment to the transgender minority attaining legislative rights. Conservatism is deeply rooted in Pakistani society and culture due to cultural, social, and religious identities. Pakistan's conservatism is defined by "enthusiasm for traditions, the rule of law, and the Islamic faith," according to American historian Stephen Cohen. As Cohen points out, conservatism is engrained in the country's culture and its politics. As a result, transgender people in Pakistan have been widely connected with homosexual behaviour. Such ludicrous beliefs can only flourish in ultra-orthodox countries, leaving transgender people with limited opportunities to advocate for their rights. Sodomy is a criminal offence in Pakistan.

The legal system in Pakistan is a mix of Anglo-Saxon colonial and Islamic legal systems. The Penal Code is a relic from the British Raj's Penal Code of 1860, outlaw identical relationships with permission. Under Islamic Sharia law, adultery, fornication, alcohol consumption, and same-sex sexual practices are prohibited. Because Pakistan's legal system does not recognize a third gender, Hiras in Pakistan have never been granted any rights and have remained subjects of mockery, abuse, and assault. They are frequently urged to dance for the enjoyment of men and women at weddings, and they are paid for these dances, which allows them to make a living (S.Mrinalini, 2001).

4.2. Design of the Transgender Persons Dogma

The development of transgender policy began with Mr Saqib Nisar, the Honorable Chief Justice of Pakistan (CJP), hearing a Human Rights Case (Case No. 32005-P/2018) concerns transgender people being issued CNICs. Throughout the case, he gave orders to develop a comprehensive plan for the protection, reintegration, and popularisation of transgender individuals in society without prejudice or shame. PSPA began working on the Transgender Persons Welfare Policy in response to CJP directives. Multiple discussions with members of the transgender community, government officials, and quasi-groups were held in addition to performing literature reviews to get a first-hand understanding of the situation of transgender persons.

On the 9th of August 2018, the Law and Justice Commission of Pakistan, in coordination with PSPA, held a seminar at the Supreme Court of Pakistan (Paki-SC) on the rights and



welfare of transgender people. Honourable Justice (R) Khilji Arif Hussain presided over the seminar's sessions, while the honourable CJP presided over the closing session. The gathering brought together representatives from the Supreme Court, relevant government agencies, democratic institutions, and 15 transgender people to discuss the issues, prospects, current initiatives, and reform options that transgender people confront. During the lecture, CJP underlined the importance of minimising transgender people's social marginalisation. He added, "The right to a fair existence and equitable treatment is inherent in fairness and justice, and it is safeguarded by the Pakistani Constitution." He asked that the federal and provincial governments come up with a plan to help these folks. He praised Punjab's national goals to recruit transgender people and urged other regions to fall into line.

Dr Sohail Anwar, Chief Executive Officer of the Punjab Social Protection Authority, presented the seminar's suggestions as well as the policy framework for defending and safeguarding transgender people's rights at the seminar's conclusion. Significant proposals for reducing the agony of transgender people were advocated for during the conference, including resiliency, inequity, and social inclusion. Health services and health cards, improved police treatment, accelerated and quasi-education for transgender people, skills provisions and loans, assistance for people with disabilities and senior citizens, shelters and housing, job quotas, awareness-raising, and the need for provincial legislation were among the proposals for quality improvement. The CJP praised the policy framework and requested that the recommendations be made public so that they may be discussed and critiqued.

4.3. Prohibition against Prejudice and Harassment

Prejudice against transgender people will not be tolerated in any circumstances. They are citizens of the same state as everyone else. No one or any state has the authority to legislate against transgender individuals or discriminate against them solely based on their looks. However, they continue to face prejudice in health, education, and employment. For the third gender, the right to own property and equality before the law are simply fantasies. It is not only the tale of third-world countries like Pakistan, but it is also the story of rich countries exploiting the third gender. According to reports, the United States, which is widely recognised as the champion protector of human rights, has done nothing to protect the third gender's basic human rights.

The harassment of transgender people is not a new chapter worldwide, yet they are harassed everywhere they go. They cannot live in peace because of their financial frustrations, which forces them to work as sex workers or dance at private parties.



Harassment, according to the definition, includes not only sexual and physical harassment but also psychological harassment carried out through unspoken words, gestures, and behaviours.

4.4. Law implied Duties and Responsibilities on Transgender Persons

It is sometimes suggested that, in addition to making government bodies responsible for transgender people's rights in Pakistan, the judicial system should also hold transgender people accountable. This concept is based on input and opinions from Pakistan's transgender community gathered through a survey technique. *"There must be certain limitations placed on us as well,"* Sapna, a transgender woman, said during one of the interviews. We are citizens, and it is the majority's responsibility to act courteously if we expect others to regard us. Prostitution, drug usage, and theft are all unacceptable (Sapna, 2018). *"When there are no more limitations governing our behaviour, we will be free as animals,"* Pinky, a trans-sexual, observed. Respect for our religious and cultural heritage is essential. To protect society's fabric of our communities, we should not be wild; instead, we should stay inside limitations.

4.5. Legal Weddings of Transgender Individuals

Pakistan is governed by sharia law, which grants trans-sexual individuals the freedom to marry and recognizes them as legal citizens. However, trans-sexual marriages are not permitted in Pakistan's law. Because the transgender population faces substantial societal marginalization, transgender marriages should be brought before Pakistan's Sharia courts and reviewed. One of the responders stated, *"Social isolation at an early age has left us emotionally wounded."* In our society, the government should establish legislation legalizing interfaith marriages.

4.6. Supreme Court of Pakistan Rulings

In 2012, Pak-SC issued two significant decisions concerning transgender people's rights. This ruling was notable because it recognized the community's problem and spoke out against the prejudice that transgender person's encounter. Due to this ruling, transgender people were denied national documentation, leaving them unable to enjoy their fundamental civil rights as Pakistani citizens. The discriminatory approach was based on societal stereotypes; nonetheless, National Database and Registration Authority (NADRA) held the official view that because numerous transgender people's paternity was disputed, they might not be awarded state identification cards.



According to the Pak-SC, transgender people are the third gender class and are 'equal' voters. As a result, they were guaranteed all of the constitutional rights, if not all of them. NADRA was also advised by the Court to guarantee that national identity cards were provided to those who needed them. As a result, they were guaranteed all of the constitutional rights, if not all of them. The Pak-SC further recommended that NADRA guarantee that transgender people receive national identity cards so that they are aware of their gender identity.'

Despite the fact that society's inherent biases were at the foundation of the prejudice, NADRA said that many transgender people could not obtain national identity cards because their parentage was unknown. Transgender people, according to the Pak-SC, belong to the third gender category and are 'equal' citizens of Pakistan. As a result, they now have full access to all of their fundamental rights. The Court also ordered NADRA to guarantee that transgender people receive national identity cards that incorporate information about their gender identity.'

4.7. Components of Rulings of Supreme Court of Pakistan Rulings

The parent rulings described above, as well as the shadowing directions, had insufficiently exacting characteristics. The fundamental concern was that the Court only accorded formal equality to transgender people by determining that their problems are caused by a communication barrier between them and management. This problem could be solved by hiring a pivotal person to represent the community's disagreements.

While transgender people's legitimacy is questioned, the Court expects them to have the same communal obligations as conventional citizens. As a result, directing government organisations to work together with transgender people was just part of the solution. The right response would have been for the government to direct that aggressive measures be taken to alleviate society's inherent bias and unfairness. The transgender rights decision is a minor footnote in Pakistan's long and convoluted legal history. It's important to remember that transgender people were granted rights by a panel of 17 appointed individuals who lacked democratic legitimacy. As a result, no one was obligated to accept the ruling.

4.8. Connotations of the Supreme Court of Pakistan Rulings

As a result of this ruling, NADRA records merged three new categories: male transgender, female transgender, and unisex gender. The Supreme Court of Pakistan has ordered NADRA to prepare for medical testing of transgender people (or eunuchs, as the Supreme Court calls them) to confirm their gender identity. This ruling has been made in 2011 and



received a lot of backlashes. "No such testing was required for males and females; instead, their word was sufficient," India Rana, President of the Gender Interactive Alliance (GIA), said. The narrator asks, *"How come our word isn't enough?"*

This ruling was divisive because it was prejudiced against women, which the constitution prohibits under the right to equality. Nonetheless, the difficulty was alleviated because future Pak-SC decisions did not mention the need for screening.

5. The Transgender Persons Act, 2018

In May 2018, Pakistan's parliament passed the Transgender Persons Act. This Act, 2018 promoted gender fluidity, defining transgender people as transsexuals, untouchables, transgender men and women, Khawaja-Sara, and anyone else whose *"gender identification or sexual preference appearance differs from the social customs and cultural hopes centred on the sex they were offered at the time of delivery."* Transgender people were also given the option of registering with any government agency, including NADRA, based on their sexual identity. As a result, the issue of sex-based prejudice against transgender people was addressed, and they were offered many self-identification options.

5.1. Concerns with Transgender Rights Legislation

- The Act, 2018, was passed by the upper house as a parliamentary bill, posing a fiscal constraint for two reasons. To begin with, it lacks ultimate legitimacy because Pakistan's national legislature has not approved it. Second, even if the National Assembly of Pakistan accepts this Act, the government will not assume financial responsibilities because they are confidential.
- The Act, 2018, is insufficient because of ambiguity in its jurisdiction; the Act states that it applies to the entire country, but since the 18th amendment to Pakistan's constitution, a law can only be applied to provinces if provincial assemblies endorse and recreate it under article 144.
- A major flaw with the bill is that all four provinces are now working on and endorsing their laws to protect transgender people's rights; rendering the act 2018 worthless once those measures are passed.
- The Act, 2018, provides penalties for violations in the Pakistan Penal Code (PPC), creating concern over how to apply it.
- The Election Commission of Pakistan and the election candidate form mention whether transgender people will vote in the male or female sections.



- Ten transgender people, on the other hand, will run for office in Pakistan's upcoming elections. This Act, 2018 was drafted by a trans-women-led organization and focused only on trans-rights. Transgender people were left out of the process, and the law does not address their concerns.

5.2. The Acts Legacy Tool

The gender self-identification clause of the Act, 2018 is effective because it allows transgender men to inherit in the same way as cisgender males under Sharia laws, and transgender women to inherit in the same way as cisgender women (half of the men's share). These rules enable transgender people in Pakistan to avoid parts of the judicial system that cisgender people find objectionable. However, because Act, 2018 applies the Sharia law of inheritance to all transgender individuals, it may be difficult to interpret these articles regardless of faith. This may assist the transgender community since the state will impose an obligation on biological households to provide a fair share of the inheritance to transgender people. This is an onerous responsibility imposed by international law on non-Muslim transgender people.

5.3. Review of the Act, 2018 about the Contentious Equal opportunity Layout

The expansion of Act, 2018 includes a 'right to education for transgender people. However, there are significant issues with how these requirements are explained, and the group is only provided with notional equality after they are implemented. The Act, 20218 states that transgender people would not face discrimination while applying for admission to any public or private institution,' provided they meet the agreed-upon standards.' Suppose the phrase "*completion of the required standards*" is taken literally. In that case, it means that if transgender children complete academic institution entrance requirements, they should not be discriminated against in any way.

On the other hand, this clause purposefully ignores the important practical disparities that transgender people have faced. When their families try to mould their behaviour into something more typically male, transgender youngsters leave their families at a young age. Because of their acts and behaviours that cross-gender borders, they face antagonism at home and school. As a result, they drop out of school and are adopted by masters who do not support or advocate for their children's education. Due to their lack of education, these youngsters have no possibility of adapting to modern society. As a result of the tight admissions rules, transgender people would be unable to advance in academic institutions. In "*Shirin Munir v. Government of Punjab*," Pak-SC ruled that sex-based restrictions may be applied to protect women and children, but not to protect unworthy males from stigma



and exclusion of their female counterparts, as this would contravene legitimising principles.

It is explained several times that if the state gives protection to transgender persons, women, and children under Constitution, they will be even more protected because any discrimination directed against them is a violation of the constitution. The Act, 2018 requires the government to *"take steps to offer universal primary education to transgender individuals as stated by Article 25-A,"* despite the fact that the constitution only applies to children aged five to sixteen. Almost many transsexual people have had no access to formal schooling, as described before in this article. As a consequence, the scope of the Act 2018, restraint is confined to individuals whose ages are considerably over the maximum age range, as they were deprived of proper schooling owing to their unusual circumstances. The state is no longer obligated to correct this. We lament the state's irresponsible disrespect for transgender people's collective experience of horrifying history.

5.4. Utterance Disparity for Implementation

The use of the pronoun "he" for transgender people rather than the expected pronoun "them" is a prominent *"incoherence"* in the Act, 2018. The term 'his' has been used in sections dealing with transgender people's right to vote, right to work, right to public places, and right to property. According to the Act, 2018, any term not specified in the definition clause *"must have the same meaning given to it in the Code of Criminal Procedure, 1898 (Act V of 1898) or the PPC, 1860 (Act XLV of 1860)."* *"The pronoun he and its variants are used of any individual, whether male or female,"* according to the PPC. Because the pronoun 'him' refers solely to men and women, not to any other gender — in whose defence the Act, 2018 was passed — this is a blatant error on the part of the legislative body. This absence will have limited legal repercussions if the courts take a broad view of the law. However, because transgender people do not fit into the gender binary, a strict reading might theoretically render it difficult to provide them with their rights. These rights can also be limited to transgender people who have a strong resemblance to males or females, potentially eliminating intersex people. *"Intersex"* refers to those who have *"a mixture of genders."*

5.5. The Act Includes Non-Penal Provision

The Act, 2018, is also not punitive to a considerable extent. Only one section contains any sanction, and it is aimed at individuals who hire or force transgender people to solicit. The lack of any punitive sanctions, on the other hand, may make it hard to adequately administer the Act, 2018, because there would be no incentive (however painful) for



people to obey the law's instructions. According to certain theories, *"the socialisation process excludes most deviant behaviour."* Others who have internalised their society's moral laws are unable to commit criminal acts since their self-concepts forbid it.

The classic criminology model only fits the person's un-socialized (and thus amoral). It is reasonable to conclude that cultural norms and forces significantly impact human behaviour. Theft is a socially stigmatized crime that serves as a deterrent to individuals who fear social isolation. As a result, most people resist the temptation to steal.

Trans-sexual people, on the other hand, are commonly labelled as non-citizens in this situation. Because the ordinary Pakistani has been trained to detest their life, this Act, 2018, must include some type of punishment. As was the case during the 2018 General Elections, its restrictions are likely to be ignored. For contestants who did not identify as male or female, the official election forms lacked appropriate gender identification alternatives. This was an obvious breach of the Transgender Act, which states that *"no discrimination based on sex, gender identity, or gender expression would be tolerated if transgender individuals desire to seek election to public office."*

The Act of 2018, which is structured in equal opportunity and prohibits discrimination and prejudice, contains similar standards. It would be a massive step toward eliminating inequality if prejudiced behaviours in schools, hospitals, and workplaces were punished.

Although the Pak-SC ordered governmental bodies to take numerous similar steps to end discrimination and prejudice behaviour against transgender people, and obstructing the superior Court's directives could be considered contempt of Court, a punishable offence, this possibility has not proven to be a deterrent in the past. To achieve a straightforward solution, the Act, 2018 must penalise such conduct. In addition, according to Immanuel Kant, *"the overall justifying end of punishment is deterrent and criminal control, thereby aiding the state's goal of protecting individual freedom for all persons."*

In addition, no legislation exists to protect transgender people from hate crimes. In Pakistan, violent attacks on transgender people have been perpetrated due to a discriminatory attitude toward them. Other rights for Pakistan's transgender people should be debated once they have gained their most fundamental right to life.

5.6. Insufficient Timeframe for Implementing Required Changes

Since the Pak-SC declared transgender people equal citizens over a decade ago, the government must continue working tirelessly to achieve that the transgender population



reaps the full benefits of their new position. The proviso clause in section 21 of the Act, 2018, which states that *"no order shall be made to alleviate any difficulty that may arise in the implementation of these provisions after two years from the date of the Act, 2018 commencement,"* should be amended, because two years is insufficient to address all of the issues that the transgender community faces. While the Act, 2018 establishes regulations for governmental affirmative action, a two-year timeline is insufficient to transform Pakistani society's inflexible mind-set. Prejudice and negative attitudes against transgender people must be addressed before meaningful equality can be achieved.

6. Conclusion

Numerous attempts have been made in Pakistan to guarantee that transgender people have access to constitutional rights. In this perspective, equality is the most important right because transgender people have endured prejudice on the subcontinent since the colonial era. Pakistan's approach to resolving this issue, on the other hand, is erroneous. The Pak-SC and Parliament have placed a greater emphasis on achieving apparent equality than fair and equal treatment, which should have been the objective. The state cannot claim meritocracy as long as transgender people face social, economic, and political discrimination and prejudice. This is the only way their issues will be properly handled. They are allowed to run for office under the Act, 2018, but it is pretty hard to find an open seat. While the Act, 2018 was a watershed moment in history. Although elected officials acknowledged and owned the transgender community on a national level, a detailed examination of the Act, 2018 reveals that it is deficient in many respects and leaves much to be expected.

The Act, 2018 should be amended even more to appropriately resolve these and other vulnerabilities and issues. In addition, the federal government must design and fund an efficient strategy for the implementation of the Act, 2018. The provinces are responsible for drafting their versions of the Act, 2018. Only then could Pakistan take a comprehensive approach to the transgender community's right to equality.



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