

Perception of Transgenders on Transgender Persons (Protection of Rights) Act, 2018 in Mardan



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Abstract: *This study has been carried out with the title "Perception of transgenders on Transgender Persons (Protection of Rights) Act, 2018 in Mardan." Pakistan Chowk and Charsadda Chowk have been selected as the target locations for the research. This research had been carried out to acquire information regarding transgender people's opinions on the Transgender Persons (Protection of Rights) Act, 2018 in Mardan. The research's major goals consist as follows: (1) To investigate the concerns of transgender community in Tehsil Mardan.(2)To ascertain transgenders' attitudes toward the transgender law in the designated areas. Research data was collected from participants via interviews; therefore the research we conducted was qualitative in origin. This research was done to gain information regarding the difficulties about the fundamental rights of transgender people, as described in the Transgender Persons (Protection of Rights) Act, 2018. The study revealed that the vast majority of transgender individuals were unsatisfied with the recent Transgender Persons (Protection of Rights) Act, 2018 which was implemented for transgender rights. They were also unhappy with the governance structure of Pakistan. A majority of the transgender community disagreed with the provisions of Transgender Persons (Protection of Rights) Act, 2018. In accordance with the results, the Pakistani government and members of the society are infringing on transgender rights. In accordance with the research report, the transgender population endures severe hardship and their civil liberties continue to be infringed upon.*

Keywords: Perception, Transgender, Protection of Rights, Mardan,

Introduction

Being an Islamic state the transgender community in Pakistan are still face discrepancy and not focus by the government and society. Islam teach equality for all sort of people but the society at large looks the transgender community and they are consider inferior to the mainstream gender such that male and female. And also the Transgender individual faces lack education, employment, healthcare, and even

safety. Although the largest court of Pakistan Supreme Court also recognized the rights of transgender in 2013. Perhaps these rights are not still fully implemented. To achieving won rights which awarded by government the transgender community continues to struggle (Rehman, 2017).

In province Punjab of Pakistan having the largest amount of transgender found with 64.4 percent (figure is 6709) were register. According

to the Sixth Population and Housing Census the total number of transgender individuals was reported to be 10,418. According to study in Sindh have the second largest population of transgender individuals found with 2,527 individuals or 24% of the total. Khyber Pakhtunkhwa has 913 transgender individuals, and Balochistan has 109. The former Federally Administered Tribal Areas (FATA) has 27 transgender individuals and Islamabad has 133 (Khan, Liaquat & Ali 2017).

The Supreme Court instructed the Pakistan Bureau of Statistics (PBS) to include separate codes for disabled and transgender individuals in the latest census, conducted after an 18-year gap. Before, this decision, the census did not have a specific option for transgender individuals, forcing them to identify as disabled. The data shows that 7,651 transgender individuals reside in urban areas, while 2,767 live in rural areas. In urban Punjab, 4,585 transgender individuals were recorded, while in rural areas there were 2,124 transgender people. The data indicates that the urban transgender population is nearly double than that of the rural population. In Sindh, the urban transgender of the population was 2,226 and the rural population of the transgender is 301. These patterns were also seen by Khyber Pakhtunkhwa with 690 transgender individuals in urban areas and 223 in rural area (Abbas, Nawaz, Ali, Hussain & Nawaz, 2014).

Transgenders are those whom did not identify their with or present themselves as gender they were assigned by it's birth. The term "transsexual" refers to those, someone whom have undergone gender reassignment surgery, or identifies as the opposite gender. In South Asia the transgender individuals are commonly referred to Hijra or Khawaja Sira (Rehman, 2017).

According to the colonial rule "the British Criminal Tribes Act" of 1871 says about Hijras (transgender) and other minorities group will be threats with order and morality. But in Pakistan the rights of transgender are often violated, and the society shows them disrespect and treats by sexual harassment. The people having authorities are often failing to take action, to

protect transgender individuals and also their issues were mostly ignored. Access towards their healthcare is also limited, who frequently faces discrimination, ostracism and harassment in almost cases. They may also be disowned by their own families and they have no access to job opportunities. Often they are corresponding to these activities such as dancing, prostitution, and begging. Some improvement and increase of awareness in recently are, the right of transgender remains an important issue. In the 2009 Supreme Court recognized transgender individuals and they were identified as the third gender, and the National Assembly of Pakistan passed bill which for the "Protection of Rights" (Rehman, 2017).

Act, 2018: The protection of their right Transgender

The Transgender Persons (Protection of Rights) Act, 2018, National Assembly of Pakistan was passed, which is praise by the International Commission of Jurists to support transgender rights globally and gives them the right to self-identification and their gender (Abbas, Nawaz, Ali, Hussain & Nawaz, 2014).

Details of transgender bill in Pakistan

Transgender persons (Protection of Rights) Act, 2018 guarantees all fundamental rights enshrined in the Constitution of Pakistan. In addition, the Act recognizes transgender persons' right to property inheritance, voting, education, employment, healthcare, and assembly, access to public places, security and to hold public office (Khan, Liaquat & Ali 2017).

Transgender

The term "Transgender" refers to individuals who do not conform to traditional societal expectations of gender identity and its expression. In other words, they identify as a gender that is different from the one they were assigned at birth (Abbas, Nawaz, Ali, Hussain & Nawaz, 2014).

Biological Perspective of Transgender

Whitlock presented the reality that the concept of transgender is a socially constructed one, where some individuals are born with genitalia

that deviate from the typical male or female, and others with "ambiguous genitalia" or genitalia that fall between male and female.

Psychological Problems

Psychologists consider a psychological disorder to be a malfunction in an individual's mental functioning that causes distress or impairment and is not culturally typical. To determine if something is a symptom of a disorder, they consider three criteria of dysfunction (Khan, Liaquat & Ali 2017).

1. Concept of Transgender in Islam

Transgender individuals' spirituality is considered just as valid as that of other individuals. Khan (2017) states that Prophet Muhammad (peace be upon him) showed respect for transgender people, condemned their mistreatment, and appreciated those who had a spiritual disposition among the transgender community.

The Quran states that Allah is the one who decides one's form in the womb (Qur'an 3:6). According to Islamic belief, nothing happens without divine involvement. Therefore, it is a fundamental tenet of Muslim faith that all human forms, shapes, races, physical traits, and attributes are part of a larger creation plan, and should be accepted and respected. This means that every human being, whether male, female, or transgender, has an equal place in Islam and there is no justification for discrimination based on gender (Khan, Liaquat & Ali 2017).

The Quran does not specifically mention transgender individuals. However, it mentions in one verse that believing women are allowed to reveal their beauty to men who do not have sexual desire, among others. Some Islamic scholars have interpreted this verse to include intersex individuals who lack sexual attraction to women and believe they can work as household servants. The terms "Mukhannath" and "Khuntha" have been used in Islamic literature to refer to effeminate people and hermaphrodites, respectively (Rowson, 1991). Islamic law not only acknowledges transgender people's inheritance rights, but also mandates equality and fairness. As-Sa'adi's Tafsir Saadi

(2003) states that a Mukhannath with more male traits will receive a male's share, a Mukhannath with more female traits will receive a female's share, and a middle ground will be found for a Mukhannath with ambiguous characteristics (called a Mukhannath-Mushkil). Marmon (1995) reports the existence of a sacred eunuch society established near the tomb of Prophet Muhammad (PBUH) in the mid-12th century, and similar societies at other tombs, which remain active organizations into modern times (Marmon, 1995).

2. History of Transgender Persons in South Asia

The status of transgender people in the Indian Sub-continent has had its ups and downs throughout history. In the Mughal era, castrated men known as Khawja Saras were given positions of power and trust as security officials in charge of female quarters. In 14th century a eunuch name "Malik Kafur" was a trusted courtier and army general for the; Delhi Sultanate ruler "Alauddin Khalji". However under British ruler the situation for transgenders peoples worsened, as they were included as a criminal tribe under the 1871 Criminal Tribe Act. This leading to isolation, exclusion, and stigma which causing to resort to occupations such as entertainment and begging for their survival (Khan, Liaquat & Ali 2017).

The social status of transgender individuals, in Indian Sub-continent has varied throughout history. During the Mughal era the castrated men known as Khawja Saras having powerful positions. However under British ruling, in 1871 Criminal Tribes Act label as transgender individuals as a criminal tribe which leading to social isolation and economic exclusion. According to the repeal of the Act after independence little was done to improve but the situation of transgender, leading to continued stigma and discrimination (Abbas, Nawaz, Ali, Hussain & Nawaz, 2014).

3. Population of Transgender:

Because of these factors such as ignorance, exclusion and stigma. Collection of accurate data about the transgender community is very difficult task, because the lack of efforts to

collect information about this group and as well as their reluctance to disclosed their information to authorities. As a result the population of transgender people as mentioned in the 2017

Census is under reported, as shown in the table

Residence	Administrative Unit						
	Pakistan	KPK	FATA	Punjab	Sindh	Balochistan	Islamabad
Rural	2767	223	27	2124	301	40	52
Urban	7651	690	0	4585	2226	69	81
Total	10418	913	27	6709	2527	109	133

The above reports is statistical of transgender population is correspond to the different factor which included the psychological and cultural sensitivity and asking various of question. This is the monitoring report of the UNFPA's on the census notes 'that is to finding the disability and also the transgender status, and some cases made of assumptions which is based on cultural sensitivity. The term "transgender" in the census correspond to those specifically intersex individuals and the type of questions were phrased an offensive manner. Only 10418 transgender people nationwide due to these above issues(according to the 2017 Census report). To improve our policy for such kind of communities which is necessary to collect information from alternative sources or at least make estimates of their number and circumstances (Khan, Liaquat & Ali 2017).

Recent research indicates that about 2% of children may have a tendency or potential to be transgender. There is no specific data available for regional populations.

In 2016 the Khyber Pakhtunkhwa were facing the transgender is about the 45000. This is another estimate which abstract from a 2009 new article cited by transgender community leaders that there is 300,000 transgender people in Pakistan." but the actual number of transgender in Pakistan is different. The population were suggest by different resource like research studies is that the actual number of transgender is more than the 10418 in last 10 years. The US found that 0.3% of the population of transgender which would like to translate around 0.6 million transgender people in

Pakistan. To understand the numbers and circumstances of the transgender community we need more data collection which provides information exactly (Khan, Liaquat & Ali 2017).

4. Key Challenges that Require a Transgender Persons Specific Policy

A review of available literature and recent discussions with representatives of the transgender community in Pakistan has revealed the following as significant issues in their circumstances:

In Pakistan, transgender individuals are largely seen as not being a part of the accepted community. They face widespread rejection and are often not welcomed to live among regular neighborhoods, leading them to establish their own secluded settlements outside of the regular communities (Khan, Liaquat & Ali 2017).

- In Pakistan, approximately 30% of transgender individuals have received education up to primary level, 23% up to secondary level, and 7% up to higher secondary or college level. The remaining 40% did not receive any formal education.
- Even those who manage to get a college education face difficulties finding regular well-paying jobs and often have to resort to singing and dancing for a living, like their less educated peers in the transgender community.
- Many transgender people are seen as playthings for others. As a result, they are often forced into prostitution to make a living.
- Members of the transgender community often experience abusive treatment by law

enforcement personnel.

- The transgender community faces widespread public humiliation, disrespect, exclusion, and marginalization not only in public places, but also in government offices, hospitals and schools.

- According to the documentation by Trans Action Alliance/Blue Veins, there have been 46 reported murders of transgender individuals and 300 instances of violence against them in KP from January 2015 to July 2016. Meanwhile, the Khwaja Sira Community in Punjab recorded 70 cases of domestic abuse in 2015.

- According to a mapping study by Vision, 82% of transgender individuals experienced sexual abuse during their childhood.

- There is currently no government support or aid available for the transgender community. They often face harassment from government institutions and law enforcement agencies.

- There is lack of support from either the communities or governmental institutions during instances of criminal victimization. And sexual harassment is a major concern for the community of transgenders.

- The word "khusra" are mainly or more commonly used in a derogatory manner to belittle the identity of transgender individuals in subcontinent. It implies that the impotence is incompetence and also a lack of power. Friends are may jokingly as insult a person they perceive as effeminate by calling them a "khusra" and even public also treated not well.

- In Pakistan mainly the significance of historical and spiritual role of transgender individuals has been ignored, and they are used as subject of ridicule and insults. Even popular TV programs sometimes makes jokes about the transgender community (Khan, Liaquat & Ali 2017).

Research Methodology

For the research methodology is very important component for any type of research, in which included the uses of various tools and techniques to collecting data for the study. In Our research utilized various tools and methods to clearing

that the data we obtain is trustworthy and as will as accurately.

Sampling

Snowball sampling data collecting techniques used for data collection because it will fulfilled the requirements of the research as we need. Therefore for this research study we using the snowball sampling method.

Sample size

Small representative of the whole universe is sample. It would be very difficult for us that to collect data from all the people in the target area, therefore the researcher selected 7 respondents from the targeted area.

Saturation point: The concept of saturation point refers to the stage in data collection where one, as a researcher, is discovering no or very little new information from his/her respondents. In qualitative research, this is considered an indication of the adequacy of the sample size.

Tools of data collection

Gathering data is the key phase in research. Proper tools are essential for data collection. It's crucial to choose the right tools, as different tools may be more appropriate for different researchers and research projects, depending on their type and scope. In this research, unstructured interviews were utilized as the data collection tool.

Unstructured interview

Unstructured interviews offer a high degree of flexibility in terms of content and format. They allow you to arrange the questions in any order you prefer, as well as freely choose the words and phrasing you use in presenting questions to participants. Additionally, you have the freedom to spontaneously ask questions or raise topics during the discussion as they come to mind.

Data analysis

After the collection of data, the findings were classified through thematic analysis to understand concepts, opinions and experiences. A conclusion was drawn and on the basis of these research findings, suggestions were made for the betterment and social inclusion of

transgender community in the mainstream society.

Data Analysis

Results

Demographic Characteristics and

Participant Information:

Demographic information was taken from Transgender community by filling the demographic questionnaire. The following table shows demographic characteristics of the participants of this research.

Table 1: Showing summary of the demographic characteristics of Transgender.

Name of the participants	Bulbul	Zarka	Anmol	Rani	Titli	Shabana	Wara
Participant number	1	2	3	4	5	6	7
Age	23	25	28	26	24	27	29
Education	F.Sc	Matric	Matric	Matric	F.A	Middle	Middle
Occupation	Dancing	Dancing	Dancing	Dancing	Dancing	Dancing	Dancing
Live With	Family & Community	Community	Family & Community	Community	Community	Community	Community
Birth Transgender	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Rank in community	Dancer	Dancer	Dancer	Dancer	Dancer	Dancer	Dancer

Perception of transgenders on Transgender Persons (Protection of Rights) Act, 2018

Theme 1: What do you understand by Transgender Persons (Protection of Rights) Act, 2018?

My respondents stated that Transgender Persons (Protection of Rights) Act, 2018 is a good step for transgenders’ rights but voiced their concerns that the Government of Pakistan do not give them their due rights. My respondent 2 stated this bill is just a piece of paper and we are not satisfied with this bill. My respondent 1 stated this bill is rumour and propaganda because this bill is not in the favour of their rights.

Findings: Majority of the respondents were not satisfied with Transgender Persons (Protection of Rights) Act, 2018 because they believe that this bill is not in the favour of transgender rights. They are demanding their rights from the Government of Pakistan.

Theme 2: What is your thinking about Transgender Persons (Protection of Rights) Act, 2018 and what kind of rights do you want?

My respondents stated that they want self-

respect because they have no respect in the society or a decent source of income. They told that majority of people teasing them everywhere. My respondent 1 stated that they want respect from their family members because their parents and relatives are not giving respect and treating them badly. My respondent 2 and 3 reported that they demand fundamental rights like Right to Life, Education, health, safety, accommodation, employment, transgender card, inheritance etc. My Respondent 1 stated that transgender people are also human beings and a part of this society. So, they want to lead a peaceful life with their fundamental rights protected by the government. But, still the Government has failed to provide fundamental rights to the transgender community.

Findings: Majority of the respondents wanted their fundamental rights to be granted to them which have been mention in the Transgender Persons (Protection of Rights) Act, 2018. Government of Pakistan still failed to give transgenders their due rights. So, the transgender community want to achieve their fundamental rights like right to life, education, health, job, transgender card, safety, accommodation etc. They are not fully satisfied with the Government of Pakistan and also voiced their reservations

against the Transgender Persons (Protection of Rights) Act, 2018.

Theme 3: How can the transgender community achieve their rights?

My respondents stated that government of Pakistan is responsible to give them their rights. They claimed that they can not achieve their rights because the government is ignoring their rights. My respondent 1 stated that they can not achieve their rights because this bill is dealing with the same sex marriage (man-man sexual relationship) not dealing with their fundamental rights. As a Pakistani citizen, they are demanding their rights from the government of Pakistan.

Findings: Majority of the respondents are not happy with the policies of the Government of Pakistan. They said that the Government of Pakistan is violating their rights and they are treated like aliens in Pakistan.

Theme 4: What is your opinion about Transgender Persons (Protection of Rights) Act, 2018? Is this bill fulfilling your rights and how?

My respondents responded to this query in the negative and stated that this bill does not fulfill their rights. This bill is just a piece of paper because it is not implemented in Pakistan properly in letter and spirit. My respondent 7 stated that in this bill Government of Pakistan has mentioned the issuing of transgender card but still they are waiting to get this card. They asked how could one say that this bill will fulfill their transgender rights.

Findings: Majority of the respondents are not in the favour of Transgender Persons (Protection of Rights) Act, 2018 because they want transgender card which means they want self-identification. They are demanding the implementation of Transgender Persons (Protection of Rights) Act, 2018 in Pakistan.

Theme 5: Are you satisfied with the Government of Pakistan which has passed a bill for the protection of transgenders' rights?

My respondents stated that they are not satisfied

with the Government of Pakistan. Because they want to achieve their rights as a citizen of Pakistan. Every citizen of Pakistan enjoy their rights but transgender rights are still being violated in Pakistan. My respondent 4 reported that they are not satisfied with both Government of Pakistan and the Transgender Persons (Protection of Rights) Act, 2018 because they think this bill is just a joke with transgender community.

Findings: Majority of the respondents were not satisfied with Government of Pakistan. Because they want their fundamental rights be protected just like the rights of other citizens OF Pakistan, but the Government of Pakistan is still violating their rights.

Theme 6: Does this Act affect our new generation and how?

My respondents stated that this bill is exclusively drafted for the protection of transgender rights and it does not affect our new generation in any significant way. They stated that they are just following their occupation and generally do not interact outside of our transgender community because they have very limited friends circle. My respondent 1 stated that this bill is promoting homosexuality which is not only looked down upon but is also prohibited in Islamic Society. Respondent 6 also agreed with respondent 1. It has made this bill controversial from the first day of its enactment.

Findings: Majority of the respondents agreed that this Act does not affect our new generation. But if someone likes to visit transgenders environment, then that person can easily be influenced. However, people do not appreciate interacting with transgenders, that's why transgenders live in close-knit communities in isolation, mostly secluded from the mainstream society. They were also concerned about the bill being made controversial on social and electronic media.

Theme 7: What you say now after the Transgender Persons (Protection of Rights) Act, 2018 is passed? Does the society and your family give you respect?

My respondents stated that they are hopeful the

society and their family will give them respect after the passage of Transgender Persons (Protection of Rights) Act, 2018 because they are also human beings and they are by birth transgender. My respondent 3 reported that her parents give her respect and love her but their relative are twitting her father. That's why her father send her to live with the transgenders community. She said that here she is happy because they are all the same like her. She hoped that one day their family will give them respect.

Findings: Majority of the respondents were hopeful that the society and their family will respect them after the passage of Transgender Persons (Protection of Rights) Act, 2018 and with this hope they are surviving in their life. They objected that in the society people are teasing and twitting them very badly.

Theme 8: Are you happy in this transgender community? Tell me the reasons.

My respondents stated that they are happy in transgender community because here they all are transgenders and they live in peace and harmony with each other. They stated that They are an innocent community and respect and support each other. They responded that their Guru gives respect to everyone and is very loving to them. That's why they consider and treat their Gurus like their parents. There is no one teasing and twitting them in their community. Here, they are living in the shape of a joint family. They expressed that they share their feelings, emotions, problems, happiness and sadness with each other. My respondent 4 stated that they they are safe in their own community and have no fear of other people of the society.

Findings: Majority of the respondents are happy living in transgender community because of the mental peace they enjoy where no one can harm and/or insult them. They are happy in transgender community because all transgenders give respect to each other and living with love, affection and peace among themselves.

Theme 9: Who inspired you to join transgender community?

My respondents stated that no one inspired them to join the transgender community. They stated

that they were compelled to join it due to the demeaning behaviour of family and relatives towards them and the daily teasing, twitting and insults they faced in the society. Majority of people sexually harassed them, that's why they left their homes and came to transgender community where they felt themselves safe. My respondent 1 stated that she was inspired by Miss Mardan because she liked her dance and personality.

Findings: Majority of the respondents were not inspired from anyone but their compulsions pushed them to go to the transgender community. The reasons behind it were sexual harassment, twitting, insulting, rape, physical torture etc.

Theme 10: Are common people and transgender people equal in rights? If yes/no then how?

My respondents stated that transgender and normal people do not enjoy equal rights because the Government of Pakistan give their due rights to a common person and they enjoy fundamental rights like right to education, CNIC, health, employment, casting vote, assembly membership, safety, freedom of speech, gender identification card, recreation, sports, self respect, gender expression, B-Form, complaint of harassment etc. While Government of Pakistan still violates the rights of transgender community. Transgender Persons (Protection of Rights) Act, 2018 has no importance in Pakistan. They complained that they are treated like second-class citizens here in Pakistan and live as slaves or prisoners. They asked how can one claim that transgender people and common people are equal in rights.

Findings: Majority of the respondents did not agree that the common people and transgender people have equal rights. They mentioned that Government of Pakistan is not in the favour of transgender rights. The government is still violating transgenders' community rights. So they are not satisfied with the government of Pakistan.

CONCLUSION

Although representing an Islamic state, the transgender population in Pakistan continue to endure mistreatment and neglect both by the government and society. Pakistan is the world's second-largest Muslim country. Islam promises justice for everyone, yet unfortunately, the rights of transgender community are violated on a large scale, mostly with impunity. Notwithstanding the presence of civil rights organizations that do not represent governments, they have also failed to address the issues faced by the transgender individuals. Transgender people face obstacles to get access to schooling, employment, medical care, and even fundamental security in every aspect of their lives. While the Supreme Court of Pakistan affirmed transgender people's rights in the year 2013, those privileges remain not fully honored by the government and community or perhaps by the members of their his extended family. The transgender individuals within Pakistan have still been confronted with an assortment of challenges and dilemmas.

The majority of transgender individuals are unsatisfied with both the Transgender Persons (Protection of Rights) Act, 2018 and the Pakistani government, alleging that the governing body violates their civil rights.

Education, medical care, entertainment, liberty, safety, jobs, prejudice based on gender, accommodation, sexual orientation card, and other problems are being faced by the transgender community. They desire their freedoms in an atmosphere of peace and harmony. Transgenders request a third gender identification card because they're a part of Pakistani society, yet they remain neglected by the governing body. Transgender people prefer isolation, yet in the present day, individuals are annoying twitting, and sexually assaulting them. Consequently, they want for themselves to be safeguarded against these individuals. In my opinion, the transgender community appears to be innocuous yet they frequently become distressed psychologically while nobody within our society recognizes them. Their extended family similarly reject them and refused to enable them to come back homes.

In accordance with the findings of my study, the transgender community face difficulties in their everyday life and continue to be omitted from the mainstream society by the Pakistani government. Transgender people need equality and a consideration that they are Pakistanis too.

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