



Between Law and Tradition: The Struggle for Transgender Rights in Pakistan

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ABSTRACT

Transgender rights in Pakistan are an important field of human rights discourse that legal, cultural, and religious considerations can guide. Although there is great improvement, through landmark legislation, including Transgender Persons (Protection of Rights) Act, 2018, there remain challenges in the implementation, which prevent equal treatment. Important concerns are social stigma, medical discrimination, educational, and work, and obstacles to access to justice. Even though equal and dignified opportunities are guaranteed to all citizens by the Constitution, transgender citizens are usually marginalized because of existing social norms and a bad enforcement system. The nature of religious and cultural interpretations also makes identification of transgender rights difficult, which causes a conflict between progressive legislation and traditional mindsets. However, Pakistan has made significant strides both in legislation and judicial processes, providing avenues of increased inclusivity. Enhancing awareness, institutionalization, and judicialization is needed to make the rights of transgender individuals go beyond the symbolic realization into actuality.

Introduction

Transgender law in Pakistan is one of the most active and important legal, social, and moral discourses. The latest development in the struggle against inequality and human dignity in the country is the addition of transgender persons to the Transgender Persons (Protection of Rights) Act, 2018 (Jan et al., 2022). These freedoms are founded and sealed within the boundaries of stigma cultures, defined by, and through fallacies facilitated by the powers of the religion (Nawaz & Safdar, 2023). Despite the provision in the Constitution regarding equality, it is clear that trans people are not equal in terms of education, medicine and health services, work practice, and access to justice (Alamgir, 2024).

It represents the oppressed transgender community of the past that has not integrated fully into the mainstream community simply because they were discriminated against and marginalized when it comes to social evolution (Arshad et al., 2024). They even state that transgender individuals are primarily harassed and bullied, particularly in school, thereby becoming terrified with a frightening psychological condition and separatism (Aslam et al., 2022). There is also a deficiency of diversity through the lens of gender; the government itself is indifferent to such alienation (Arslan et al., 2023). The entire spectrum of transgender rights as presented by the law cannot be exercised in Pakistan because of social and cultural prohibitions.

Moreover, religion and cultural senses have played a role and even obstructed the socio-legal Pakistani terms of transsexual visibility (Noor et al., 2024). Though the Islamic religion similarly considers the equality to and treating all persons in a good manner, there are great possibilities that the stereotyping of the genders will proceed with isolation and discrimination (Rana & Siddique, 2022). They should be institutional and concern the legal and social psyche/religious overlay to ensure the rights of transgender individuals have the due considerations and protection in Pakistan (Manzoor et al., 2022).

Research Justification

Transgender rights in Pakistan should be studied urgently, as no other country in the world is in a better position than this one, with its liberal legislations that exist within a non-accepting social framework. The success of the Transgender Persons Act of 2018 is a milestone, though it is fraught with moral and practical problems that need extensive research to be addressed. The sheer cruelty, social and cultural ostracism, and the discrimination embraced in both law and the reality the community resides in is just an extreme example of how law is in gross lack of contemporary justice and equality. In addition, the political and religious suppression of the Act, which is being held at the moment, is also a problem of mixed legal, cultural, and ethical nature. It is a crucial dynamic towards building effective and sustainable advocacy and policy responses. It is a timely study, as the law debate is growing, and the rights gained can be reversed. This paper will bridge the gap between law and practice by looking at the barriers to implementation and how this community will continue to be kept vulnerable. It shall provide informed advocacy based on evidence-based information to shape judicial training, drive sensitive policy reforms, and ultimately act to guarantee that the ethical promise of the law becomes a working justice and dignity for transgender people in Pakistan.

Research Objectives

1. To discuss the historical context of transgender rights in Pakistan.
2. To highlight the theoretical context of transgender rights in Pakistan.
3. To analyze the laws regarding transgender rights in Pakistan.
4. To identify the key challenges regarding transgender rights in Pakistan.
5. To explore the opportunities for transgender rights in Pakistan.
6. To propose effective prevention and intervention strategies.

Research Methodology

This study employed a systematic review methodology, with research objectives established accordingly. A comprehensive literature review was conducted (Komba & Lwoga, 2020). Research findings were categorized based on their content (Hiver et al., 2021; Petticrew & Roberts, 2006), and classified information was incorporated into the study by organizing it into headings

(Gan et al., 2021; Pawson et al., 2005). The evaluation of classified information and titles formed the basis of the study (Page, 2021; Rahi, 2017), ensuring the integrity of the research subject and its contents (Egger et al., 2022; Victor, 2008). The criteria for selection are listed.

Relevance: Researches that directly addressed the questions posed by this study are included.

Quality: Studies that meet a certain quality threshold (e.g., methodological rigor, bias risk) are included. Most of the research is from Scopus-indexed and Clarivate Analytics journals and reputed publishers.

Recency: Consideration of the publication date to ensure that the review reflects the most current evidence. Most of the studies are from the last three years.

Language: Only studies published in English are included.

Data Completeness: Previous studies must provide sufficient data on outcomes of interest for practical synthesis; this is also ensured in this research.

This study did not use primary data from human participants; therefore, no ethics clearance letter from the ethics committee was required.

Literature Review

The problem of transgender rights is a hot issue in contemporary social, legal, and human rights policy in Pakistan. Since the body of literature continues to grow, the conflict that transgender community experiences with the system of discrimination, social exclusion, and institutional negligence is evident (Nawaz & Safdar, 2023). Despite the introduction of the Transgender Persons (Protection of Rights) Act, 2018, the results of empirical studies about the lives of transgender people indicate that the legislation and the actual process are not completely aligned, with the law (Jan et al., 2022). The existence of high levels of cultural stigmas and the lack of institutional resources to be able to offer inclusive policies explain such gaps (Arslan et al., 2023). Researchers have pointed out that despite having a legal framework in which equality is a right, transgender individuals continue to be marginalized in other aspects of life, such as education, employment, and health care (Alamgir, 2024).

The research has also focused on social and educational problems that transgender individuals in Pakistan are facing. It is discovered that transgender students are prone to being bullied, harassed, and marginalized in learning institutions, which leads to low rates of mental health and academic engagement (Aslam et al., 2022). In addition, the availability of higher education remains quite low due to the bias of society and institutional discrimination (Arshad et al., 2024). The reality that educators and policymakers do not know about gender diversity only increases these inequalities by depriving transgender population an equal opportunity to grow and be empowered (Manzoor et al., 2022).

The other interesting observation in the literature is the analysis of the conflict between religion, the law, and gender identity. Traditionally, transgender people were perceived in the Pakistani society through the perspectives of religion (Rana & Siddique, 2022). Despite the Islamic religion enlightening society on the issue of justice and the dignity of all human beings, the misunderstandings have been inclined to reinforce social exclusion (Noor et al., 2024). This clash between religious morality and human rights is a complex case where the promotion of the law does not necessarily result in society (Nawaz & Safdar, 2023). Therefore, the literature is never

spared of longing for the changes that bring together the law, the general population, and religion, including all its transgender individuals, to improve their rights within Pakistan.

Historical Context of Transgender Rights in Pakistan

Pakistan has a highly historical background regarding transgender rights, which is closely related to the culture and colonial past of this nation. Their status in terms of social acceptance can be seen in the fact that transgender people, or better said khawajasaras, were valued individuals in the royal courts whose duties were to take care of the children and offer advice to the royalty during the Mughal rule (Noor et al., 2024). However, the recognition was annihilated in the era of British colonization, as the non-normative gender identities were criminalized by the Criminal Tribes Act of 1871, according to which transgender people are perceived as eunuchs and are synonymous with immorality and deviance (Jan et al., 2022). This colonial system was inherited by Pakistan in the year 1947, and the same mindset remained in the society, resulting in transgender individuals being excluded from society, politics, and economics (Nawaz & Safdar, 2023).

The breakthrough became the 21st century, and in particular, the number of landmark decisions by the Supreme Court that were made between 2009 and 2012, acknowledging that transgender people were equal members of the population and provided them with access to education, health services, and employment (Arshad et al., 2024). This judicial recognition became the foundation of the Transgender Persons (Protection of Rights) Act, 2018, the new law that identifies them as legal and the rights they deserve as the most basic ones (Rana & Siddique, 2022). However, despite these advances, the realization of transgender rights in Pakistan remains an issue since the nation that has witnessed cultural prejudice and misunderstandings of the religion continues to impair the maximum realization of the rights of transgender people (Alamgir, 2024).

Theoretical Context of Transgender Rights in Pakistan

The idea of transgender rights in Pakistan is based on human rights as well as sociological concepts of equality, dignity, and inclusion. Central to this debate is the idea that all people, regardless of their gender identity, are to be respected to the fullest and their fundamental rights fully upheld. The human rights strategy promotes the principle of non-discrimination and non-universality, declaring that transgender people have the right to equal rights and protection in comparison with other citizens.

The study of gender variety in the sociological context challenges the egregious dichotomies of male and female. It introduces a perspective on the importance of cultural norms, social institutions, and power structures in marginalizing transgender people. They can be approached through theories of gender performativity and intersectionality in the way that a constellation of social forces, such as class, poverty, and religion, interact to create different experiences of discrimination.

Together, these theoretical frameworks provide the opportunity to examine transgender rights in Pakistan. They note that they must transcend formal changes in law to actual social inclusion, equality, and protection. These needs have to be not only transformed in structure but also in their attitude, in which transgender individuals are allowed to live decent, independent, and decent lives under the broad umbrella of human rights and social justice.

Laws Regarding Transgender Rights in Pakistan

The Pakistani legal system offers a number of laws and constitutional provisions that can safeguard and advance the rights of transgender people. These are laws that are based on equality, inclusion, and dignity in society.

Islamic Republic of Pakistan, 1973: Article 25 of the Constitution provides equality before the law, and Article 14 guarantees the right to dignity. The same applies to all citizens, including transgender individuals, as they are subject to non-discrimination and equal protection.

Provincial Policies and Welfare Initiatives: The provinces, including Punjab, Sindh, and Khyber Pakhtunkhwa, have implemented welfare programs, healthcare reforms, and vocational programs to enhance social inclusion and empowerment of the transgender communities.

Regulations of National Database and Registration Authority (NADRA): NADRA provides a means to make transgender individuals identify their gender on their national identity cards following judicial instructions, which helps them to get benefits and services offered by the government.

Supreme Court Judgments (2009–2012): The Supreme Court of Pakistan made historic decisions and became the first court to rule that transgender people are equal citizens. These decisions led the government to incorporate transgender persons in national registration, census files, and welfare schemes.

Transgender Persons (Protection of Rights) Act, 2018: This extensive law grants the right to self-identification, bans discrimination in education, employment, health, and access to social services, and guarantees rights to inheritance and protection from harassment.

Challenges for Transgender Rights in Pakistan

Limited Access to Resources: Transgender communities are prone to discrimination in access to education, health, and employment, and have no specific programs that would alleviate poverty and social exclusion.

Religious and Cultural Tensions: The acceptance of transgender individuals will be met with resistance because some of them will consider gender nonconformity as a challenge to their traditional beliefs, which makes this a very difficult issue to advocate.

Stigma and Discrimination in Society: Transgender individuals are victims of widespread biases in terms of culture and religious doctrines, which lead to social ostracism, bullying, and violence. This stigma discriminates against the hijra and khawaja sira communities and prevents the social acceptance of the groups.

The Gaps in Implementation of Legal Protections: Since the Transgender Persons (Protection of Rights) Act, 2018, there are bureaucratic inefficiencies and ignorance among law enforcement officials that prevent the effective enforcement of the law. As a result, transgender individuals remain susceptible to violations of their rights.

Violence and Safety Issues: Transgender people are often victims of physical and sexual violence, and the lack of appropriate legal redress and social concern only makes them more susceptible.

Opportunities for Transgender Rights in Pakistan

Civil Society and Advocacy: Non-governmental organizations, advocacy groups, and community-based movements also play a very important role in generating awareness, alleviating stigma, and empowering transgender individuals. The practice of outreach, legal literacy, and capacity building by the civil society and the government can be done in the form of partnerships.

Education and Employment Opportunities: With more access to inclusive education and vocational training programs, the transgender population will be able to adjust more to the economic challenges and become more employable. The policies that support workplace diversity and anti-discrimination can encourage better social inclusion.

International Human Rights Systems: International treaties that bind Pakistan, and especially the ICCPR, CEDAW, are useful in helping to establish a base through which policies of the country can be aligned with international human rights standards. Using these frameworks, transgender rights may be promoted with the help of foreign funding, assistance, and technical cooperation.

Judicial Activism: The history of the Pakistani courts describes the efforts to ensure and safeguard the rights of transgender people. Further judicial control and understanding of constitutional provisions like equality and dignity may be used to make sure that state institutions respect the rights of transgender citizens.

Legal Reforms: The introduction of transgender rights in the Transgender Persons (Protection of Rights) Act, 2018, is an important advancement in legislation. In the event that this law is well enforced, it brings equity in education, employment, healthcare, and access to justice. The threat of such protective measures can be enhanced with the help of better monitoring and institutional accountability.

Discussion

The discussion of transgender rights in Pakistan demonstrates the clash of progressive legislation on the one hand and social prohibitions that have deep roots on the other. One year after the implementation of the Transgender Persons (Protection of Rights) Act, 2018, the lack of its implementation has made the realization of the purpose of the Act an incomplete milestone. That Trans people still face systematic discrimination, poor levels of medical care, lack of education, and employment opportunities is indicative of the incompatibility between the political will and the reality.

Lack of institutional defense and violence is another typical aspect, a symptom of the lack of fair security offered by law enforcement agencies. Cultural and religious conservatism, social stigma, also marginalize people who are transgender, in that they struggle to fit into mainstream society. Nevertheless, there is a hope as far as judicial assessment, civil action, and international human rights provisions are concerned. Enhancing these avenues can bring the symbolic recognition to substantive equality to make transgender rights no longer an enclosed document but a reality.

Conclusion

Transgender rights in Pakistan are stuck between the law and opposition. The first step towards equality and recognition is the launch of the Transgender Persons (Protection of Rights) Act, 2018, and its court approval. However, discrimination, violence, and ineffective enforcement

mechanisms remain and hinder any significant change. Stigmatization in society, institutional discrimination, and cultural conservatism are other hindrances to the law. Substantive equality would demand more stringent enforcement of the current legislation and wider policy publicity and coverage. Only under such initiatives will Pakistan progress to justice and dignity and complete social inclusion of the transgender population.

Recommendations

Education: Pass anti-bullying laws and provide transgender students with educational grants so that everyone can have access to an education.

Education/Development of social consciousness: Introduce nationwide education to break the stigma and accept gender diversity.

Empower transgender communities through strengthening of civil society: Strengthening of NGO and community associations.

Encourage political involvement: Encourage Trans people to campaign and be elected into governments.

Enforce the law: Implement the law on Transgender Persons (Protection of Rights) Act, 2018, wholesomely through monitoring of agencies and accountability.

Ensure access to healthcare: Medical workers must be sensitized, and special institutions are needed to have a non-discriminatory healthcare policy.

Provide economic opportunities: With government help, introduce vocational training and job quotas so that transgender individuals become a part of the labor market.

Raise awareness among judges: Provide independent judicial committees to investigate cases of discrimination and violence against transgender individuals.

Research Limitations

Studies on transgender rights in Pakistan have a number of limitations. To begin with, the lack of access to reliable and comprehensive data prevents a profound analysis since official documents on transgender issues are not always complete or coherent. Second, there is a lack of empirical research on the subject of transgender rights, in particular, in the socio-cultural context of Pakistan, which limits the evidence-based information. Third, gender nonconformity may be socially and culturally sensitive, which can obstruct objective research because biases or opposition from stakeholders can affect the results. Besides, the variation of the meanings of the Islamic principles in different locations makes generalizing results difficult.

Lastly, the changing legal and social settlement of Pakistan that has undergone changes in policy in the recent past needs updates on a regular basis to keep the research up to date. These constraints should be interpreted carefully and emphasize the necessity of more robust and localized studies that would help to inform policy and practice.

Research Implications

The studies of transgender rights in Pakistan have a number of implications:

Access to Services: Studies emphasize the consequences of enhancing access to education, caring, and work to shape policies to narrow socioeconomic inequities in transgender communities.

Cultural Sensitivity: The culturally sensitive interventions can be designed by understanding how the Islamic values and cultural norms interact and create an acceptance aspect without interfering with the religious context of Pakistan.

Human Rights Advocacy: Advocacy can be strengthened by identifying systemic discrimination and violence to push to have more protections and accountability to champion the rights of transgender persons.

Policy Reform: The results can be used to implement specific policies to enhance the implementation of the Transgender Persons (Protection of Rights) Act, 2018, which covers the gaps in its implementation and enhances inclusivity.

Training Initiatives: Insights reveal that the law enforcement and judicial officers should receive training programs to be more sensitive and aware of transgender rights, so as to deliver services better.

Future Research Directions

Future research on transgender rights in Pakistan could focus on several key areas to address existing challenges and improve the system:

Comparative South Asian Studies: The comparative analysis with other South Asian countries would define the general issues and practices that should be followed in the implementation of transgender rights in different cultural and legal contexts.

Geographical and Cultural Differences: Gender differences as they concern culture, religion, and region should be examined, with the focus on local obstacles and opportunities.

The Longitudinal Impact Assessment: Long-term studies are required to determine the suitability of the Transgender Persons (Protection of rights) Act, 2018, to curb discrimination and improve inclusivity. It would give an understanding of the effectiveness of reforms in the law.

Empirical Studies: Future research should include empirical studies that record the experiences of transgender individuals in healthcare, education, work, and justice. Evidence-based policymaking requires reliable quantitative and qualitative data.

Mechanisms of Institutional Implementation: Future studies should examine how institutions, policymakers, and civil society can play a significant role in ensuring that transgender rights laws are effectively implemented and sustained.

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