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Constitutional Human Rights Of Transgender Persons In Pakistan: A Linguistic And Social Inquiry

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Abstract

This paper aims to investigate the lexical choices made in the Constitution to represent gender, the granted constitutional human rights of transgender persons, and contradictory social practices from the perspective of making them powerless and marginalized in terms of non-gender binary. The quantitative analysis of the second section of the Constitution related to human rights and principles of policy for government in terms of nouns and personal pronouns to represent generic pronouns and its implication for gender representation in a legal document was carried out through simple concordance program 4.0.5 by generating word list of data to find the frequencies. Moreover, the basic human rights of dignity, education, health care, financial security, employment opportunities, and equality in all respects ensured to all the citizens of state are discussed and social realizations of these rights for transgender are explored. The findings reveal that transgender persons neither have any representation in the Constitution of Pakistan nor they are the recipients of basic human rights in Pakistani society as compared to other marginalized groups like women, children and differently able people. To conclude, it can be said that although in the last decade, governments have passed some policies (Transgender Persons Welfare Policy, 2018) to empower Transgender community, yet, a long-term nation based social awareness program and implementation of policies are recommended to make transgender persons' lives better in letter and spirit.

Keywords: Transgender Persons, Constitutional Human Rights, Constitution of Pakistan, Lexical Analysis.

تلخیص

یہ مقالہ ٹرانسجینڈر افراد کے آئینی انسانی حقوق اور متضاد سماجی طریقوں کو غیر صنفی ثنائی کے لحاظ سے بےاختیار اور نظرانداز کرنے کے نقطہ نظر سے دریافت کرتاہے۔ انسانی حقوق اورحکومت کے لئے پالیسی کے اصولوں سے متعلق آئین کے دوسرے حصے کا مطالعہ عام سرناموں کے نقطہ نظر اور قانونی دستاویز پر صنفی

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نمائندگی کے لحاظ سے اس کے مضمرات سے کیا گیاہے۔ ریاست کے تمام شہریوں کو یقینی بنانے والے وقار، تعلیم، صحت کی دیکھ بھال، مالی تحفظ، روزگار کے مواقع اور مساوات کے بنیادی انسانی حقوق پر تبادلہ خیال کیا جاتا ہے اور ٹرانسجینڈروں کے لئے ان حقوق کےسماجی ادراک کی تلاش کی جاتی ہے۔ تجزیے سے پتہ چلتا ہے کہ خواتین، بچوں اور مختلف قابل لوگوں جیسے دیگر پسماندہ گروہوں کے مقابلے میں ٹرانسجینڈر افراد کبھی بھی پاکستان میں بنیادی انسانی حقوق کے وصول کنندہ نہیں رہےہیں۔ اگرچہ گزشتہ دہائی میں حکومتوں نے ٹرانسجینڈر کمیونٹی کو بااختیار بنانے کے لئے کچھ پالیسیاں ٹرانسجینڈر پرسنز ویلفیئر پالیسی (۲۰۱۸) منظور کی ہیں لیکن اس کے باوجود پالیسیوں کو حرف بہ حرف نتیجہ خیز بنانے کے لئے ایک طویل مدتی ملک پر مبنی سماجی بیداری پروگرام کی بھی ضرورت ہے۔

کلیدی الفاظ: ٹرانسجینڈرافراد، آئینی انسانی حقوق، آئین پاکستان، لیکسیکل تجزیہ

Introduction

Recently in 2021, Lahore High Court (LHC) issued a stay order against the appointment of lecturers through Punjab Public Service Commission (PPSC) on the petition of a transgender person having grievance that the commission has rejected the application on the basis of gender. Later the judge disposed the petition directing the Commission to entertain the transgender community members if they fulfil the eligibility criteria (Dawn, 2021). An interesting take-away in this case is that the representative of Higher Education Department Punjab took the position that the transgender community can apply for PPSC exams in female category. This is weird because the issue is not the inclusion of transgender community into one of the gender binaries but the main concern is to have a separate category for transgender community in every job opening commensurate with their population.

Vincent (2018) brings to light this fact that many researchers in the past have employed such strategies to research the phenomena of transgender identity which were against the ethics of research. This insensitivity on the part of researchers have disillusioned the transgender community. He also pinpoints the vital significance of "nuanced language use". The researchers of the current study observe that not only researchers but also the policymakers are employing such lexical diction which is neglecting the transgender community. Therefore, the supreme law of Pakistan i.e., Constitution of Pakistan (1973) has been analyzed using concordance program to verify the veracity of the aforementioned claim.

The "law" is often conceived to be a force above the notions of human will and impulse, an almost divine, implacable, interpersonal force (College, 2005). From a gender perspective, it has been pointed out that as a social construction of patriarchy, law treats and sees women the way men treat women (MacKinnon, 1991). Critical race theorists also corroborate this observation by indicating that in its essence, law is inherently racist.

Hence, Matsuda (1989) tries to find a jurisprudential method that would incorporate a "multiple consciousness" to give voice to those who have been systematically ignored while formulating laws owing to their race, sex, class, sexual orientation, or physical abilities. This way law often becomes the tool of exploitation for the people in a society who have the power to make, interpret and implement it, considering the 'other' groups as less than full legal citizens or even human beings. It is usually through law that social policies, social roles, governmental budgets, and welfare regulations are determined. Consequently, this situation creates a need to study and interpret the law from the perspectives of biasness.

Constitution of Pakistan

The Constitution of Pakistan drafted and approved in 1973 laid the new foundation of law and political culture in the country. In the Constitution of Pakistan, the second section is divided into two segments i.e., Fundamental Human Rights and Principles of Policy respectively containing 33 Articles in which 33 changes have been made so far. Through these Articles, state informs all of its citizens about their basic rights.

In this regard, its language has to be neutral, removing any kind of biasness towards any sex/gender, class, minority, race, sexual orientation and physical disabilities, etc. in order to ensure equality among its citizens. On the basis of these rights, certain laws are made and enacted in the society to guarantee the well-being of the general public.

Gender and Transgender

The term 'gender' is usually associated with the social construction of masculinity and femininity contrasting with 'sex' as the biological construction of man and woman. In both these constructions, the society is divided into a binary distribution. This type of distribution leaves out transgender people and shows a negative bias towards them. According to Bockting (2015), "Transgender" refers to having a gender identity that differs from one's sex assigned at birth. "Gender identity" refers to the basic conviction of being a man, woman or other gender (e.g., bi-gender, queer, gender questioning, gender non-conforming). An umbrella term transgender is used in this research to refer to the third type of citizens other than man and woman in any society. If women are considered 'other', 'the second sex' (De Beauvoir, 1949) 'a defective man' (Aristotle, 4th c. B.C.); the transgender people are considered to be 'defective human beings' 'deviants' 'social outcasts' and 'social outlaws' in any society. Out of 196 countries of the world, only seven have officially given some of the fundamental rights to transgender (Pasquesoone, 2014); namely Nepal (2007), India (2009), Pakistan (2009), New Zealand (2012), Bangladesh (2013), Germany (2013), and Australia (2014).

Research Questions

On the basis of abovementioned discussion, following research questions have been formulated to investigate this phenomenon from linguistic and social perspective.

Q.1. Whether the language of Constitution of Pakistan is sexist or gender neutral?

Q.2. What are the fundamental human rights provided to all citizens of Pakistan andthe social realizations of these rights when compared in terms of transgender people?

Voices Raised for Transgender Community in Pakistan

To highlight the pitiful situation of transgender community in Pakistan, a few researches and reports are presented. In this regard, bloggers and newspapers have made significant contributions e.g., they periodically reported the plight of transgender people (Akhtar, 2016; Daily Times, 2016; Rani, 2016; Dawn, 2019; Express Tribune; 2019; Waheed, 2019). Rasheed (2016) has published a report concerning the transgender community in Pakistan along with the countless challenges they face in their day-to-day lives in accessing public services. This report is based on interviews with activists, development sector professionals, officials, and members of the transgender community covering six themes: transgender population, identification, public sector employment, literacy and schooling, public health, and protection of (trans) life and property. Trans Action Alliance, a project by Blue veins, is the first ever organized transgender movement of Khyber Pakhtunkhwa which represents transgender community from 25 districts of Khyber Pakhtunkhwa and erstwhile FATA (Trans Action Alliance, 2015). It is working for the well-being and protection of transgender community in KPK. Nazir & Yasir (2016) have studied the socioeconomic conditions, literacy level and occupational trends among transgender persons in five districts of KPK. Their research reveals the willingness among 80% transgender people to adopt a respectable profession.

Framework of Analysis

The linguistic analysis of the Constitution has been made on lexical level; the choice of neutral words or generic nouns to represent the genders is investigated in quantitative analysis through simple concordance program 4.0.5 by generating word list of data to find the frequencies. The fundamental human rights are discussed in relation to gender and their realization in society has been commented upon by supporting evidences from current social practices in education, health, and employment data. Furthermore, the way they have been treated in the past decade has also been analyzed. The constitutional language, social practices and government policies are discussed from the paradigm of Fairclough's (1985, 1989, 1992) model for Critical Language which emphasizes

dialectical relations between micro linguistic analysis, analysis of social practice, and analysis of social structures as exploratory critique. The social process can be seen as the interplay between three levels of social reality: social structures, practices, and events (Chouliaraki & Fairclough, 1999). In critical realist terms (Fairclough, Jessop & Sayer 2004), social events are constituted through the intersection of two causal powers – those of social practices based on social structures and those of social agents.

Lexical Choices in the Constitution: Linguistic Analysis

The quantitative analysis of data realizes that to whom human rights are ensured is manifested through certain lexical choices of nouns and pronouns i.e., man, women, children, transgender, person, citizen, he, him, his, she, her, they, it etc. The sexist language (Cralley & Ruscher, 2005) is defined as, "Words, phrases and expressions that unnecessarily differentiate between women and men, or exclude, trivialize or diminish either gender" (Sarrasin et al., 2012, p. 113).

e.g., The dignity of man and, subject to law, the privacy of home, shall be inviolable **(Article, 24).**

Equality of citizens (Article, 25)
1) All citizens are equal before law and are entitled to equal protection of law.
2) There shall be no discrimination on the basis of sex.
3) Nothing in this Article shall prevent the State from making any special provision for the protection of women and children.

Non-discrimination in respect of access to public places (Article, 26)
(1) In respect of access to places of public entertainment or resort not intended for religious purposes only, there shall be no discrimination against any citizen on the ground only of race, religion, caste, sex, residence or place of birth.
(2) Nothing in clause (1) shall prevent the State from making any special provision for women and children.

Table: 1
Frequency of generic nouns and personal pronouns in second section of constitution of Pakistan

Nouns & Personal Pronoun	Frequency
Person	37
Citizen	21
Man	01
Women	07
Children	04
Trans/third gender	00
He	01
She	00
His	11
Him	03
Her	00

The above given words and their frequencies realize predominant frequency of generic nouns' i.e., person and citizen as they provide no clue to gender categories rather become neutral and avoid biasness of gender discrimination. Man is used generically alongside with the pronouns which are always masculine i.e., he, him, his; thus, presenting a male world view. Article 263 of the constitution related to gender and number states: "a) words importing the masculine gender shall be taken to include females" (Article 263, constitution of Pakistan)

In this perspective, 'he', 'his' and 'him' become generic pronouns but even in the explanation of its inclusion, it talks about only its gender binary 'female'; so, transgender people have never been represented as the stakeholders of legal responsibility. The women and children are always discussed in such a way as they are responsibility of the state to be protected but transgender have never been lexically represented as the recipients of fundamental human rights. Fairclough (1985) calls social institutions as containing diverse 'ideological-discursive formations' and being dominant with its own naturalized discourse norm can be unaware of ideological underpinning of its discourse. Law as a social institution, and constitution as social action treat the gender on ideological grounds.

Prewitt-Freilino et al. (2012) argue that generic/sexist language influences social gender stereotypes and results in injustice, thereby, affects the societal status of women and men and in this case, it is transgender community which has been deprived of its legal recognition of citizenry. Androcentricity is reflected through Masculine generics making females and other genders indistinguishable in several discourses. If male generics are interpreted in a gendered way, they may cause a perpetual impact on gender stereotyping and gender performativity (Prewitt-Freilino et al., 2012). Rose (2010) also advocates to avert the sexist language in the Supreme Court because male becomes 'norm.' As precision is sought in legal discourse, gender-neutral language should be adopted by the

Supreme Court language (Rose, 2010). She suggests a few alternatives to promote the gender-neutral language in legal context i.e., usage of plural nouns and pronouns ("pluralizing"), repetition of the noun, employment of an article in place of a pronoun, adopting the relative pronoun "who," using paired pronouns ("he or she"), rephrasing the sentence to evade the necessity for a pronoun and the style of alternating masculine and feminine pronouns.

The above discussion makes it clear that the language of the constitution of Pakistan is sexist ensuring the rights to only men, women and children through masculine generic pronouns; it expunges the transgender people from the list of the citizens of Pakistan. In order to remove the gender biasness, gender is represented through plural pronoun 'Their' in American Constitution; similar kind of a change can be brought in the Constitution of Pakistan.

The Fundamental Human Rights and the Social Practices of these Rights for Transgender Community

Human Rights can be defined as those fundamental touchstones which enable human beings to live with self-respect. They are the basis of freedom, justice and peace allowing everyone to prosper. Calling these assurances "rights" implies that they belong to particular individuals who can invoke them, that they are of high priority, and that compliance with them is essential rather than optional (Zafar Kalanauri & Associates, 2012).

The classifications of fundamental rights under the constitution are 22 and these could be divided into six major categories:

i)	Personal Rights	ii)	Civil Liberties (Social Rights
iii)	Religious and Educational Rights	iv)	Economic/Financial Rights
v)	Equality Rights	vi)	Cultural and Language Rights

If we see the social realization of all these rights from the standpoint of transgender community, it is clear that they are denied their due constitutional rights. For instance, the names they are called such as Hijra, Khusra, Khawaja Sara, etc. are quite insulting and against the Article 24 related to the dignity of man 'The dignity of man and, subject to law, the privacy of home, shall be inviolable.' This indignant way of conceptualizing is a way to marginalize one section of population. These social practices are ideological discourse events as representation of hegemonic discourses (Fairclough, 1989) in terms of transgender persons' rights realizing that how discourses are put into practice. Two latest official developments are carried out by Ministry of Human Rights, Pakistan (2018) by passing of Transgender Persons (Protection of Rights) Act and the Punjab Social Protection Authority (2018) presented Transgender Persons Welfare Policy which, although, ensure all kinds of constitutional rights to the trans community on theoretical

level, yet, no notable linguistic and social change is yet visible in Pakistan practically. In this context, some fundamental human rights of transgender persons are stated below and social practices are analyzed to realize governments' attitudes and policies towards the realizations of their empowerment and exploitation.

Right of Medical Treatment

As far as medical treatment is concerned, apathy of the state is not the only hurdle, in addition to that, the societal attitude is also very despicable towards transgender persons. For instance, Farzana Jan, the president of shemale association of KP, also reported the humiliating behavior of other patients, attendants, doctors and laboratory boys (Akbar, 2016). This situation contradicts with the Article 1, 2, 3 and 22 of the Universal Declaration of Human Rights and the constitutional responsibility of the state towards its citizen as stated in Article 38(d): "The state shall provide basic necessities of life, such as food, clothing, housing, education and medical relief, for all such citizens, irrespective of sex, caste, creed or race, as are permanently or temporarily unable to earn their livelihood on the account of infirmity, sickness or unemployment."

All the hospitals in Pakistan have separate wards for men, women and children but before December 2018, there was not a single hospital in the country which had separate ward for transgender community. A heartrending instance happened in Peshawar which resulted in the death of an injured transgender person named Alisha who died in Lady Reading Hospital, Peshawar because she could not get medical treatment in time because doctors were reluctant to admit her to male or female ward (Dawn, 2016). In 2018, a separate ward was set up for the transgender community in PIMS, Islamabad (The News, 2018). Likewise, KPK government issued a notification to set up separate wards for trans community in all government hospitals of the province (Express Tribune, 2019). These are heartening decisions but they should be materialized in letter and spirit and should also be extended to other parts of the country as well because the constitution of Pakistan and transgender social welfare policy guarantee such rights for all its citizens.

Right of Education

Being citizens of Pakistan, transgender community is equally entitled to get education (Constitution of Pakistan, 1973, Article 25A; Punjab Social Protection Authority, 2018). But the situation is worse as the number of literate and illiterate transgender children and adults are never known; thus, making them the most powerless group in Pakistan by denying their access to educational and vocational resources. Pakistan social and living standards measurement survey (2014-15) by Pakistan Bureau of Statistics (2016) reports the existing number of male and female at primary, middle, matric level alongside with literacy practices of people of different ages on provincial and district level throughout Pakistan with tentative targets to be achieved in the upcoming years leaving aside the

transgender people as invisible creatures by assuming that either their identity is merged into these two binaries or it makes no difference whether they are getting education in Schools or not. This fact is ascertained by Government of Punjab (2015) Education Department Census of schools, Government of Balochistan (2013) Education Sector Plan (2013-2018), and Government of Khyber Pakhtunkhwa (2016)KPK Annual Statistical Report of School Education (2015-2016, p. 2). These documents report the enrolment in terms of only two gender binaries as the school admission form mentions only two categories of gender identities. An interesting case in point is Government of Sindh Board of Education (2014) which gives three categories of gender enrolment in primary schools i.e., male, female and mixed. The word 'mixed' may include transgender but it is vague as it may mean the mixed categories of male and female.

Primary Schools

SR.No	School Level	Gender	No of Institutes	No of Enrollments	Teachers
1	Primary	Boys	9532	591455	19083
2	Primary	Girls	6264	463692	16413
3	Primary	Mixed	27104	1908475	60905

Figure 1: Gender representation in primary schools in Sindh Education Board

Ministry of Education, Pakistan (2015, pg. 5) presented Education for All Review Report that states the facts about male and female students only i.e., total enrolment in primary schools is 17.6 million, with 9.8 million (56%) boys and 7.7 million (44%) girls (Table 1.2).

Table 1.2: Enrolment in Formal Schools in Pakistan

No.	Balochistan	FATA	GB	ICT	KP	Punjab	Sindh	AJ&K	Pakistan
Primary Schools	670,143	374,994	107,990	119,168	2,980,910	9,123,952	3,821,191	376,501	17,574,849
Male	402,433	253,494	61,403	60,785	1,785,509	4,868,313	2,206,311	194,055	9,832,303
Female	267,710	121,500	46,587	58,383	1,195,401	4,255,639	1,614,880	182,446	7,742,546
Middle Schools	163,491	75,713	45,662	64,615	1,050,771	3,474,610	1,081,979	162,356	6,119,197
Male	105,889	64,325	26,324	32,294	691,501	1,883,408	600,420	86,615	3,490,776
Female	57,602	11,388	19,338	32,321	359,270	1,591,202	481,559	75,741	2,628,421
High Schools	71,790	29,295	20,970	37,614	424,661	1,599,465	581,326	70,205	2,835,326
Male	47,319	24,904	11,815	19,213	288,592	881,297	334,637	39,231	1,647,008
Female	24,471	4,391	9,155	18,401	136,069	718,168	246,689	30,974	1,188,318

Source: NEMIS 2013

Figure 2: Enrolment data from the perspective of Gender in Pakistan Education for All Review Report (2015)

Figure 2 illustrates the enrolment data in Pakistani formal schools in 2015 only in terms of gender binaries across the provinces either not reporting the transgender children's data or implying that they were not taking part in educational activities.

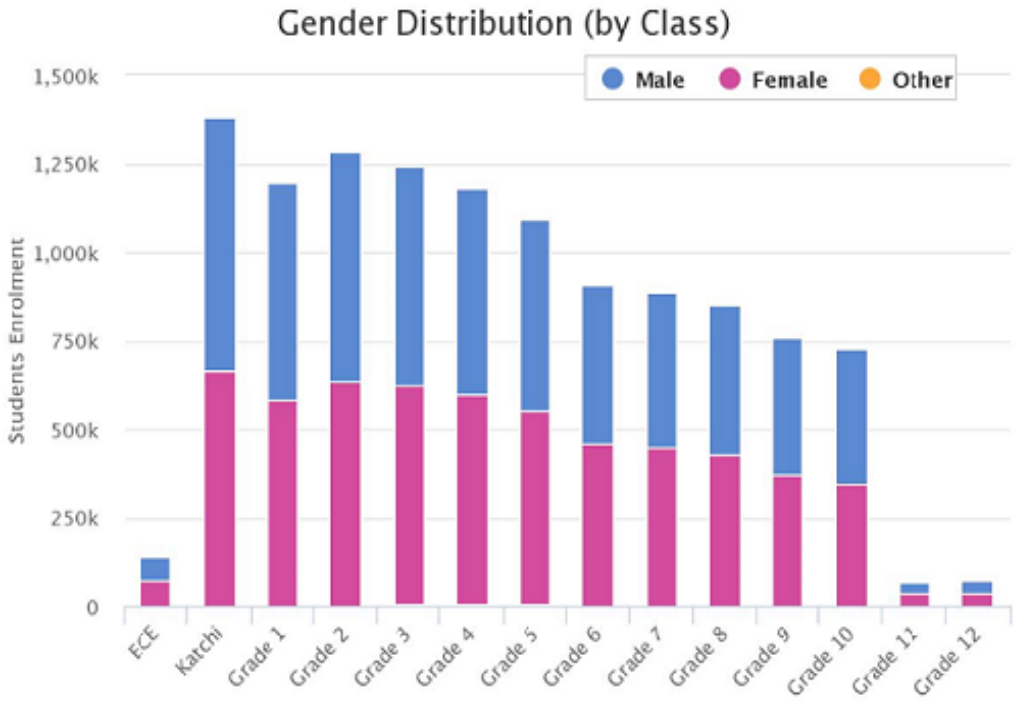


Figure 3: Gender representation stated by the Punjab School Education Department in May 2021

Figure 3 presents quite recent data shared by the Punjab School Education Department in 2021 in the similar vein that in formal schools only gender binaries' data is represented despite giving 'other' category; on this basis, an inference can be made that 'others' are not the part of formal education.

To sum up, all the data related to school education departments of Pakistan report the educational facilities as a constitutional right for gender binaries, making no effort to account transgender people as stakeholders of educational system, thereby, violating state's constitutional responsibility (Article 25-A and 38-D) and United Nations' (2017) Universal Declaration of Human Rights (Article 23). Same can be expected for higher education but research has yet to be conducted to quantify the number of transgender persons at higher education level in Pakistan.

Financial Rights

Transgender community is also marginalized in terms of economic and financial rights as well owing to the lack of educational facilities. This results in their low literacy and they fail to qualify for a job, although, right to employment is ensured in the Constitution of Pakistan (Article, 18). Punjab Bureau of Statistics. (2015) published Labour Force Survey (2014-15) that states the figures of employment, unemployment, and self-employment status in different industry divisions in terms of male and female e.g.,

EMPLOYED - *DISTRIBUTION BY MAJOR INDUSTRY DIVISIONS*

(%)

Major Industry Divisions	2013-14			2014-15		
	Total	Male	Female	Total	Male	Female
Total	**100.0**	**100.0**	**100.0**	**100.0**	**100.0**	**100.0**
Agriculture/ forestry/hunting & fishing	43.5	34.2	74.0	42.3	33.1	72.7
Manufacturing	14.2	14.7	12.3	15.3	15.7	14.1
Construction	7.3	9.5	0.3	7.3	9.5	0.2
Wholesale & retail trade	14.6	18.5	1.6	14.6	18.7	1.4
Transport/storage & communication	5.5	7.1	0.2	5.4	7.0	0.1
Community/social & personal services	13.1	13.7	11.5	13.2	13.7	11.3
*Others	1.8	2.3	0.1	1.9	2.3	0.2

* Others (includes mining & quarrying, electricity, gas & water, financing, insurance, real estate & business services and extraterritorial organizations and bodies)

Figure 4: Gender representation in Labour force Survey (2014-15) extracted from Pakistan Bureau of Statistics

So, the only profession left to the majority of transgender persons to earn their livelihood is begging, singing or dancing as they are socially rejected and considered unfit for any kind of a job. They have no other option but to adopt these humiliating jobs. General public abhors them for their profession because they think that the transgender community is adopting these professions on purpose. In Peshawar, a transgender named Gul Panra was shot dead while another transgender named Chahat was injured when they were returning after performing at a wedding (The News, 2020).

This study reveals that it is not their choice but a compulsion thrust upon them as a result of apathy of state towards their fundamental rights. Another example in this regard is that of Riffie Khan (Akhtar, 2016) who in spite of getting Double Master's degree from Shah Abdul Latif University in Shikarpur in Economics and Political Sciences, was not able to keep a job. In 2003, she was pressurized to quit her job at the National Medical Centre in Karachi, where she was employed as front desk officer, because she did not

match with the norm. In this way, they are not allowed to be financially sound or support themselves as a normal human being.

Financial strength is also associated with land and property ownership along with right of inheritance. Although the national and provincial data of land and property ownership is not available in consolidated form from the perspective of gender, it can be extrapolated that the transgender people are the most vulnerable in this regard as well. They are usually disowned by their families and reared by 'gurus'; thus, they are also deprived of their inheritance. That is the responsibility of the state to ensure the social and economic well-being of its citizenry as stated in the Articles 23, 24-A and 38-A, B, C.

Civil Rights

Transgender population is the most marginalized in this case too as they got their right of identification as a citizen of Pakistani state in 2009 (62 years after the inception of Pakistan) when Supreme Court ordered NADRA to add the third category for Transgender in CNIC. In 2011, the court ordered to simplify and expedite the processes of applying, verifying and issuance of CNIC to transgender people to assist them in claiming their rights. In 2012, the category of 'Khansa' was introduced on CNIC and for the first time in the history of Pakistan, transgender persons were registered. Initially, the number was only 687 (Rani, 2016). In 2013 general election, they cast their votes for the first time in the history of Pakistan and in 2016 by-poll, a transgender Mohammad Arif aka Madam Bota competed against 25 other candidates from PP-78 Jhang. Although, she herself acknowledged (Islam, 2016) that the chances of her winning were slim, yet, she was determined to contest as it was her right to play an active role in the local politics as a citizen of Jhang. But their identification is still not fully realized on all the official documents like passports, other travel documents or even on CNICs throughout the country because of having no family documents like Birth certificate or father's identity card. As shown in the below diagram, the form for smart CNIC has no category for gender and its sub categories.

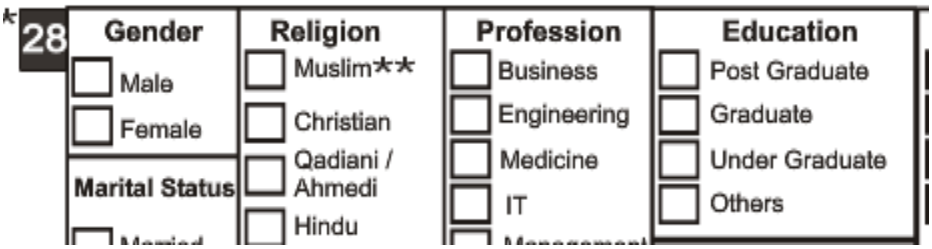


Figure 5: Gender categories in the application form for National Identity card for Overseas Pakistanis

Transgender population as human beings and citizens of this country has no official and political platform to register their voices for their rights as they have no political representation in the provincial and national assemblies which makes them the weakest of the women, children, disable people and other religious minorities whose rights have somewhat been tried to protect through quota system in Pakistan. Due to stigmas attached with persons having a transgender identity, most of them cannot exercise their religious rights too in the religious places. On the basis of this social limitation, transgender community decided to build their separate mosque in the outskirts of Islamabad to cater the need of 2700 transgender community (The News, 2016).

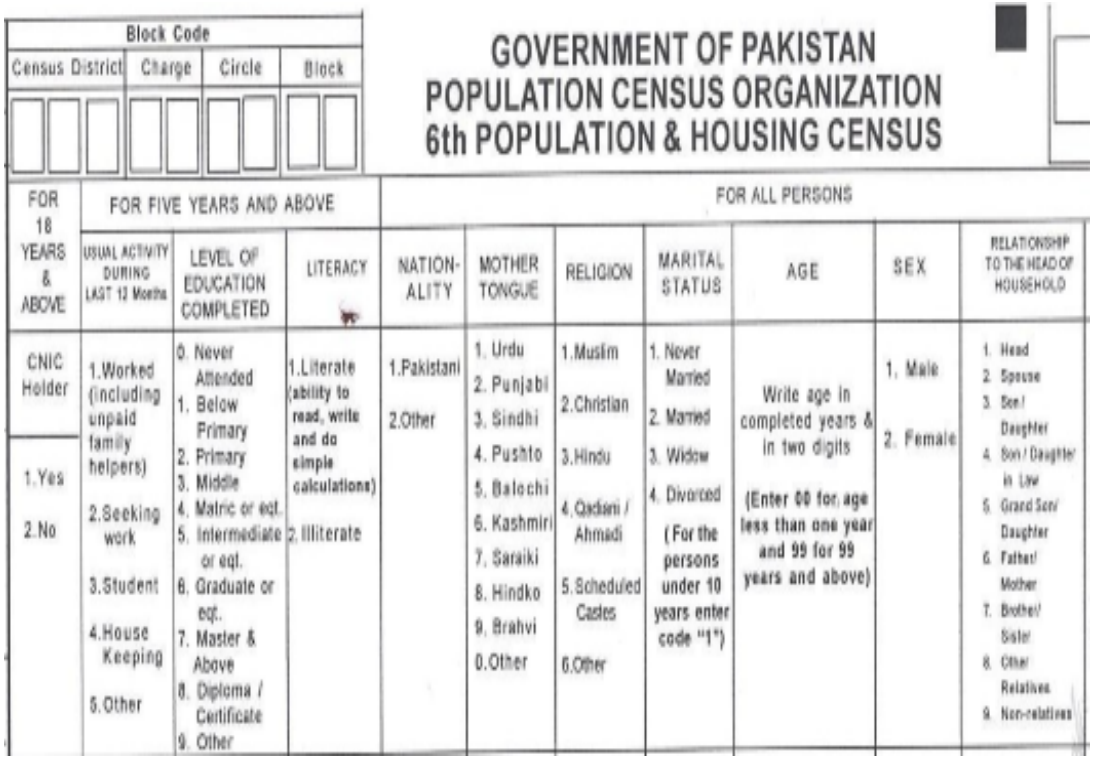
Policies of Government

This section digs out what are and have been the policies of governments in the past decade till present to promote gender equality in terms of legal and welfare programs for transgender community. This section also compares the situation with other countries and suggests ways to protect the rights of transgender people. Various Pakistani Governments have made no serious efforts to ensure the protection of the rights of its transgender population as human rights. This claim is backed by this reality that even their exact number in the population is unknown as sometimes their identity is merged with male or female. A rough, unauthentic estimate is cited by Akhtar (2016) which states that researches carried out on transgenderism detect that roughly one out of 50 children have a transgender inclination, resulting that transgenderism may influence about 2 percent population of Pakistan. Even in census of 2017, their population is under reported that exhibits how stigmatized and abandoned that community is. Unless their exact population is known, it would be difficult to make and implement policies for their rights.

Residence Status	Administrative Unit						
	Pakistan	KPK	FATA	Punjab	Sind	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

Figure 6: Population of transgender persons in different administrative units reported in the Census 2017

On the other hand, The United Nations AIDS (UNAIDs) Control Programme's annual reports (2015, as cited in Rasheed, 2016) also present estimations of the transgender population in the country. The Country Progress Report (prepared by the National AIDs Control Programme under a UNAIDs/United Nations funded surveillance project, 2015) alludes to a narrow approximation of the transgender population to be nearly around 150,000. In 2009, on the directions of Supreme Court, an official survey was conducted in Punjab and KPK which estimated the transgender population in Punjab to be 2,167 and in KPK to be 324. However, the findings of this survey were rejected by Transgender rights activists alleging that recognized standards of research were not followed while conducting this survey (as cited in Rasheed, 2016). It was reported (Husnain, 2017) that in census 2017, transgender category would be introduced after the ruling of Lahore Supreme Court but the sample form accessed by the researcher presented no such category. The transgender category needs to be added not only in census but also in all the other official documents like birth certificates, passports, job application and admission forms, etc.



Block Code

Census District	Charge	Circle	Block

GOVERNMENT OF PAKISTAN
POPULATION CENSUS ORGANIZATION
6th POPULATION & HOUSING CENSUS

FOR 18 YEARS & ABOVE	FOR FIVE YEARS AND ABOVE			FOR ALL PERSONS						
	USUAL ACTIVITY DURING LAST 12 Months	LEVEL OF EDUCATION COMPLETED	LITERACY	NATION-ALITY	MOTHER TONGUE	RELIGION	MARITAL STATUS	AGE	SEX	RELATIONSHIP TO THE HEAD OF HOUSEHOLD
CNIC Holder 1. Yes 2. No	1. Worked (including unpaid family helpers) 2. Seeking work 3. Student 4. House Keeping 5. Other	0. Never Attended 1. Below Primary 2. Primary 3. Middle 4. Matric or eqt. 5. Intermediate or eqt. 6. Graduate or eqt. 7. Master & Above 8. Diploma / Certificate 9. Other	1. Literate (ability to read, write and do simple calculations) 2. Illiterate	1. Pakistani 2. Other	1. Urdu 2. Punjabi 3. Sindhi 4. Pushto 5. Balochi 6. Kashmiri 7. Saraiki 8. Hindko 9. Brahvi 0. Other	1. Muslim 2. Christian 3. Hindu 4. Qadiani / Ahmadi 5. Scheduled Castes 6. Other	1. Never Married 2. Married 3. Widow 4. Divorced (For the persons under 10 years enter code "1")	Write age in completed years & in two digits (Enter 00 for age less than one year and 99 for 99 years and above)	1. Male 2. Female	1. Head 2. Spouse 3. Son / Daughter 4. Son / Daughter in Law 5. Grand Son / Daughter 6. Father / Mother 7. Brother / Sister 8. Other Relatives 9. Non-relatives

Figure 7: Sample form for census (Khan, 2016)

To be counted in census is extremely important for transgender community as the census carries legal, political and economic implications. This is the first and the foremost step

to ensure the rights to transgender community as their educational, occupational, residential and economic inequalities would be reported.

Educational Policies

Till 2018, Pakistani governments have made no educational policy related to transgender people. Efforts have been made for women by making it one of the millennium development goals i.e., encourage gender equivalence and empower women (UNDP Pakistan, 2017). The choice of lexis realizes only women as gender binary to be equal and hegemonic. Nazir & Yasir (2016) shared the educational data of 319 transgender persons from five districts of KP among whom just two had completed their Master degree, four had graduated, fifteen had reached till F.A., twenty had received education till middle and eleven only had been to primary classes. From the total participants, 252 were totally illiterate and 100 were limited to basic religious literacy i.e., only recitation of the Holy Quran at home or at a nearby mosque. Ironically, the Masters degree holders were stigmatized to hold any white-collar job. If we look around, some of the developed countries have devised and implemented the educational policies related to transgender people e.g., Australia, the USA. Another important resource is Whalen& Esquith (2016) who talked about schools for transgender community. For instance, in India, a residential school for transgender persons has been operational in Kochi, to help 10 grownups between the ages of 25-50 who are acquiring their education along with some vocational skills (BBC India, 2016). Although Transgender Social Welfare Policy presented by Punjab Social Protection Authority(2018, pp. 29-30) states that government shall ensure to provide free and compulsory education to all transgender persons, yet after three years of passing of this bill, no tangible progress can be seen as represented in the gender-based comparison in enrollment chart (Figure 8) that shows apart from male and female students, only 0.02% others are enrolled in schools and their educational progress or classes of enrollment is not given on the website.

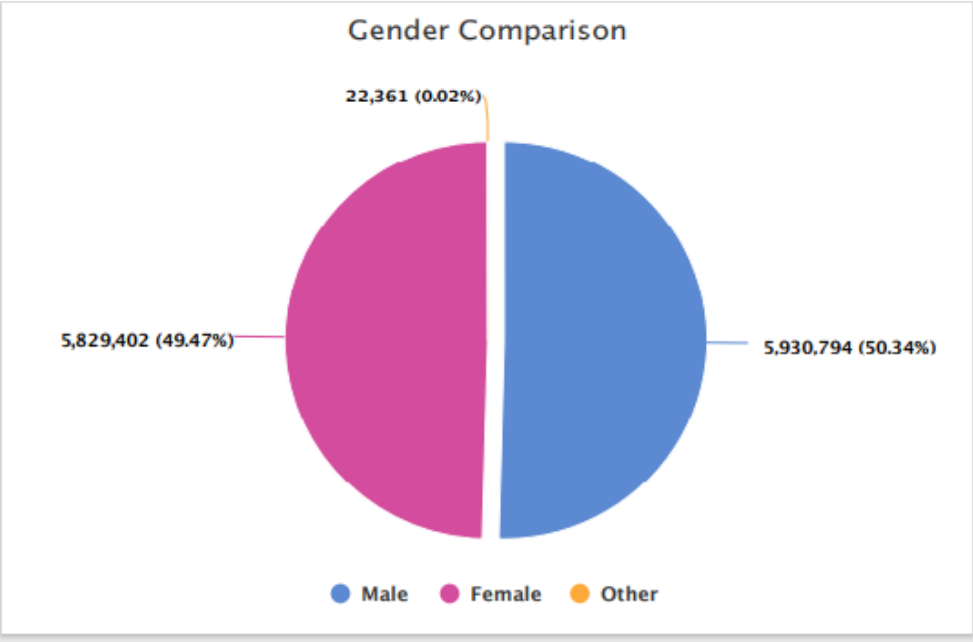


Figure8: Gender Comparison Enrollment chart by the School Education Department, Government of Punjab (2021)

An educational policy needs to be devised by Pakistani government to set up at least one special school in each district for young and adult members of the transgender community in which academic and vocational training should be provided in order to help them in attaining respectable jobs to earn their livelihood and to empower them. In the meantime, a social awareness campaign should be run to make them acceptable in regular educational and employment sectors.

Workplace Policies

Pakistani government has made no workplace or labor policy for the protection of transgender people. Although for women, anti-harassment act at workplace 2010 was passed and implemented to empower and facilitate them but no such policy exists for transgender people. After giving them education, the next important step is to create a favourable atmosphere for them at workplace. Some of model policies are, the Transgender Law Center (2013) work place employment policy; UNDP's suggestions about labour, remuneration and insurance law for transgender in India, **(**Chakrapani & Narrain, 2012); Human Rights Commission (2014) report about Canadian policy on preventing discrimination because of gender identity and gender discrimination; and Policy Department- Citizens' Rights and Constitutional Affairs European Parliament

(2010) Transgender persons' rights in EU member states. In many Western and Eastern countries, although transgender identity is not officially recognized except in 7 countries but educational, occupational and legal policies have been worked out by the state to ensure some of the basic human rights of transgender community. Even examples come from neighboring countries where social acceptance of transgender people is tried to make possible by employing them. In India, transgender people volunteered their services to traffic police and in Bangladesh they are hired as police officials.

Healthcare and Economic Policies

Human Rights Campaign (2017) has issued Transgender Affirming Hospital policies that constitute of 7 basic sections to avoid discriminatory behavior with transgender persons at public hospitals. It also aims at training and creating awareness among others to deal with transgender community. In Pakistani context, in each district hospital, at least one ward should be reserved for them.

To empower them financially, a quota should be reserved for them in every job opening as it has been done for disable persons because otherwise educated transgender people are always stigmatized and either forced to leave the job or reserved to demeaning jobs. Nazir & Yasir (2016) have shared the occupational conditions of 80 transgender people from five districts of KP and undoubtedly, this can be generalized for more than 90% population of transgender people in Pakistan.

Professions	Total	Percentage
Begging	12	15
Dancing	25	31.25
Prostitution	30	37.5
House keeping	6	7.5
Hair dresser	2	2.5
Office work (lower level)	5	6.25
Total	80	100

Source: Primary data collected from five districts of KP 2013

Figure 9: Occupational conditions of transgender people in the five districts of KP (Yasir & Nazir, 2016)

Another important policy change should be related to the right of inheritance of transgender community. Government should strongly discourage parents from disowning

their transgender children and support the ones who want to claim their share of inheritance as this would empower them to survive on their own. For the assurance of all these rights, proper legislation is required.

An exemplary legislative move came across in India when The Transgender Persons (Protection of Rights) Bill, 2016 was passed which precludes victimization of a transgender person in education, employment and medical care areas. It guides the federal and state governments to offer welfare-based government plans in the abovementioned areas. Though Transgender Persons (Protection of Rights) Act", realizes little progress towards the right track, yet, its implementation should be real concern of the government. The community considers this law as a symbolic gesture on the part of the government and that too prompted as a result of international pressure because Pakistan is signatory to many human rights protection treaties. Poor implementation is indicative of this fact that this law is not achieving the targets for which it has been formulated (Dawn, 2019). In this regard self-efforts of transgender community are obvious as the first old age home for transgender people have been opened by a transgender woman herself because she is well-aware of the troubles of transgender people especially in the old age as they have no family to take care of them (Dawn, 2018).

Conclusions

This study implies that the legal document of the Constitution in Pakistan is not gender neutral as it excludes transgender population and shows a positive bias towards gender binary of male and female; this discrimination is also viewed in almost all the government documents and regulations. This discrimination needs to be eliminated and the state should own its transgender population that will help in safeguarding their rights. In this regard, the following recommendations are made: a) The first step is to remove the lexical bias in the Constitution and other official documents by recognizing the presence of transgender persons as human beings and part of this society; b) their population should be accurately known in all the provinces and on the basis of this data, policies should be made for them; c) educational and vocational rights should be ensured by setting up separate schools and vocational institutes for them in each district of Pakistan; d) quota-based seats should be reserved for them in Higher Education institutes, work places and Parliament to make them socially and financially empowered; e) a consistent and long term social awareness campaign should be run to make the parents aware of their social, psychological, moral and financial responsibility towards their transgender children whom they disown usually; andf) health care support and counselling centers should be set up in each district to help them deal with their physical and mental

problems. The International Commission of Jurists (ICJ) (2020) has issued a briefing paper about Transgender Persons (Protection of Rights) Act, 2018 and recommended a few practical changes from legal perspective of their harassment and non-implementation of the law in the Act which we endorse as well and implementation of this Act should be ensured in true letter and spirit.

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