

TOWARD INCLUSIVE JUSTICE: A CRITICAL EXAMINATION OF TRANSGENDER RIGHTS IN LAW AND POLICY

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Abstract

Many places around the world have begun legalizing the rights and status of transgender individuals. Yet, rules that govern society and the economy can be unreliable and fail to ensure the inclusion of all individuals. The paper examines the laws governing transgender rights by focusing on their past, present, and theory-based issues. Measures to tackle discrimination, the absence of legal protection, and obstacles to healthcare and work are considered. The documents also mention possible ways to improve security and outline a practical intervention approach. The method involves using a variety of legal papers, legal judgments, and academic publications. By using this approach, my objective is to highlight what is already available in the field of transgender rights and bring attention to those who deal with relevant policies, laws, and human rights.



INTRODUCTION

The issue of transgender rights has generated debates and restructured different regions across the world (Nisar, 2022). Most countries have not yet enacted comprehensive legislation to ensure that transgender people are not discriminated against and not the targets of violent acts despite additional promotion (Arshad et al., 2024). Many regions have unique laws and guidelines about gender identities. The lack of uniform rules between countries is another challenge for international laws (Ali, 2024; Razaq et al., 2024). In recent years, the Transgender Persons (Protection of Rights) Act, 2018, was enacted by the Pakistani government to support transgender rights (Rehman, 2024). Nevertheless, even with new laws being adopted, police activity is weak, and the existence of a social stigma proves that wholesome legal support still remains to be seen (Nawaz et al., 2024; Zakria et al., 2023). Nevertheless, other policies are not functioning well, and these are the problems involving

papers, health care services, and work-related discrimination (Banik et al., 2023; Ejaz, 2022). In addition, people's views on religious and cultural beliefs can lead to inequality (Arslan et al., 2023). This research aims to evaluate both the benefits and shortcomings of the legal rules that protect the rights of transgender individuals. It seeks to judge existing laws and rulings and suggest improvements to address challenges faced by the community. It will also examine how this Act can be changed or used to benefit those who identify as transgender.

Research Justification

Transgender experience discrimination, violence, and exclusion in most parts of the globe, and therefore, their rights should be supported and respected, especially by law. By analyzing these issues, legislators will be able to determine locations where the law fails to uphold equality and human rights. Around the

world, transphobic policies prevent transgender people from getting health care, attending educational institutions, finding work, or enjoying access to services. Because of strict laws in many countries, some people are not able to get their ID to reflect their correct gender identity. As a result, they suffer even greater isolation and may become more at risk of being abused or harassed.

In situations when cultural and religious practices are at odds with international human rights, a legal view is vital to study the way rights are handled by judicial systems. Considering the positive effects of progressive legislation, such as Argentina's on gender identity and India's on a third gender, demonstrates how to proceed. It is also noted that when looking at transgender rights, poverty, mental health, and racial inequality are involved, so policies must be all-inclusive.

To help uphold dignity, equality, and non-discrimination, the research sifts through case law, reviews recent legislative changes, and observes their enforcement.

Examining case rulings, laws, and actions taken by governments informs how to advocate and design new policies to protect dignity, equality, and non-discrimination. It also fights against stigma in society by making transgender ideas legitimate in the law. Advancing the rights of transgender people through legal scholarship becomes necessary to ensure that everyone in society can live equally, free of oppression.

Research Objectives

1. To discuss the historical context of transgender rights in Pakistan.
2. To highlight the theoretical context of transgender rights.
3. To analyze the leading laws that govern transgender rights in Pakistan.
4. To identify the key challenges regarding transgender rights in Pakistan.
5. To explore opportunities for enhancing 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 enlisted.

1. **Relevance:** Researches that directly addressed the questions posed by this study are included.
2. **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.
3. **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.
4. **Language:** Only studies published in English are included.
5. **Data Completeness:** Previous studies must provide sufficient data on outcomes of interest for practical synthesis; it 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

Everywhere, people are interested in transgender rights, and campaigns and changes are being made to ensure transgender individuals are respected and protected. Transgender communities may receive different forms of treatment from other cultures. People called *khawaja sira* existed long ago in South Asia, but in Pakistan, they were highly appreciated by the Mughals but were given a lower status during the British era (Nisar, 2022). According to laws from Colonial times, they became criminals and no longer had recognition in the community. This reputation

continued in Pakistan even after gaining independence (Noor et al., 2024).

It has only been in the last twenty years that Pakistan's transgender people have been officially recognized by law. Transgender people were earlier denied civil rights, but in 2009, the Supreme Court of Pakistan decided to grant them these rights (Rehman, 2024). The end result of this history was the Transgender Persons (Protection of Rights) Act in 2018, which allows people to identify as transgender even without medical help and removes any obstacles to their employment, health, education, and safety from discrimination (Razaq et al., 2024).

While many advancements have been made, discrimination in public and private places is still a concern (Nisar, 2022). Transgender rights are supported by principles that are recognized by international bodies, with the United Nations being one of these groups. Butler's (2004) theories of gender performativity break the rigid barriers between the two binary positions and support more inclusive policies that allow for different forms of gender expression. In regard to these perspectives, in Pakistan, however, they fit in with religious, cultural, social, and legal frameworks, which are incompatible, consequently leading to tensions in the interpretation of gender identity (Noor et al., 2024). Transgender People in Pakistan Do Face Challenges, While Progressive Laws Exist. Per Ejaz (2022), according to studies, healthcare discrimination is prevalent, and doctors are not trained in transgender healthcare needs. Another hurdle is that education, being that there are institutional biases and bullying, has left low enrolment and retention rates for transgender students.

Many transgender people are left out of formal employment and find themselves working in sex work or begging for money (Banik et al., 2023). Still, sometimes transgender people encounter unfair treatment from police agencies, and sensitization training has not been offered to officers (Rehman, 2024). Still, there are some ways for transgender rights to improve in Pakistan. Nawaz et al. (2024) mention that advocacy groups, the media, and law offices are speaking out to increase awareness and encourage society to accept prisoners in a new light. With candidates joining political campaigns and discussing their concerns about policies, more transgender

individuals are taking part in political matters (Nisar, 2022). In addition, international human rights guidelines ensure that current systems receive improved legal support while also ensuring they operate better (Rehman, 2024).

On top of this, digital channels offer opportunities for raising community awareness and giving transgender people access to legal and health resources (Ejaz, 2022). This literature indicates that although transgender rights were included in Pakistani laws, their application is insufficient in helping transgender people become accepted by society. One way to overcome these issues is to reform the law, create more awareness, and focus on building the economy while also creating avenues for economic activities (Stryker, 2017).

Historical Context of Legal Perspective on Transgender's Rights in Pakistan

Understanding the situation of transgender individuals in Pakistan has to take into account both tradition and religion. Jails or transgender individuals have been accepted in this society as having special recognition in the past and have sometimes become performers or religious leaders (Nisar 2022). In their early days, they were seen as valuable members of society, but the Criminal Tribes Act issued by the British in 1871 classified them as criminals (Rehman, 2024).

Nevertheless, transgender individuals suffered discrimination after Pakistan gained independence in 1947. Because the Indigenous people were never given their rights, discriminatory practices appeared in employment, health care, and even legal matters (Banik et al., 2023). Over the past few decades, courts have recognized the efforts made to support transgender people. In that year, the Supreme Court's verdict granted them the ability to inherit, obtain jobs, and be recognized as individuals. It was one reason why the Transgender Persons (Protection of Rights) Act of 2018 was enacted, making progress in legislation (Nawaz et al., 2024; Suleman et al., 2024).

Leading Legal Frameworks for Transgender Rights in Pakistan

Steps to enact transgender rights are progressing in Pakistan. The main law in India for transgender rights is the Transgender Persons (Protection of Rights) Act

of 2018 (Zakria et al., 2023). As a result of this law, transgender individuals can choose their gender, receive care, obtain documents, and be protected in jobs, schools, and other services (Rehman, 2024). Even though regulations for trans people's identity documents exist, transgender people still encounter challenges in dealing with authorities for their papers (Banik et al., 2023). In addition, police forces often do not realize it (Nawaz et al., 2024; Ejaz, 2022; Nisar, 2022), and their rights are taken from them by police brutality. Besides, conservative and religious groups have opposed gender self-identification legally and socially, and because of this, many have called for new laws to address the issue. Although Pakistan is a signatory to important international treaties that back gender equality and equal rights, there remains a significant concern about keeping.

Theoretical Context of Transgender's Rights

We can use human rights theory, social constructivism, and feminist legal theory to study the recognition of transgender rights. Human rights theory considers identity and freedom from discrimination, along with their similar legal protections in governments and across countries. Based on socio-cultural norms, gender identity develops and is supported by social constructivism, so more than two legal gender identities are now recognized. This perspective disagrees with the laws that do not accept gender identification as man or woman.

Consequently, feminist legal theory opposes legal systems that exclude transgender people by urging lawmakers to improve the laws so that no discrimination occurs in courts and other legal systems based on gender identity and expression. All of these ideas support the need for laws that protect transgender people and ensure their rights.

Challenges for Transgenders Rights in Pakistan

Human rights theory, social constructivism, and feminist legal theory can be applied when analyzing how transgender rights are recognized. Identity and freedom from discrimination, as well as their similar legal rights in governments and elsewhere, are subjects of human rights theory (Rehman, 2024). In line with cultural beliefs, gender identity prefixes and features from social constructivism, so now there are more

than two legal gender identities. It goes against laws that only identify a person as a "man" or "woman" (Banik et al., 2023; Nawaz et al., 2024).

Thus, feminist legal theory supports making legal changes so that courts and other parts of the law do not discriminate against transgender individuals due to their gender identity and expression. All these thoughts suggest that laws should be in place to protect transgender people and guard their rights.

Opportunities for Transgender Rights in Pakistan

1. The Progressive Act for Transgender Persons (Transgender Persons Act 2018): With the Transgender Persons (Protection of Rights) Act 2018, Pakistan has become a pioneer in transgender rights in Asia by granting equal access to housing, healthcare, education, and employment and ensuring equal inheritance for transgender residents. Because of this law, freedom fighters and lawyers have the right to challenge cases of discrimination in courts. Last year, the Sindh High Court determined that a transgender person can inherit assets, making it a landmark ruling.

2. Making Women's Issues More Noticeable: Many activists and organizations in Pakistan (for example, Trans Action Pakistan and Blue Veins) are pushing hard for human rights by use of the media and by holding protests. Jannat Ali (first transgender news anchor) and Shehzadi Rai (activist) are playing a key role in changing how society views transgender people. They use social media to speak out to people everywhere on essential issues.

3. Economic Empowerment Activities: Financial aid from the Benazir Income Support Programme (BISP) is provided to society's transgender citizens by order of the government. To help reduce begging and sex work, organizations such as UNDP and the World Bank fund vocational courses run by NGOs such as the Transgender Skills Development Center in Lahore.

4. Conventions and Treaties: Sovereignty hinges on countries getting support and funding from others for development. Pakistan's involvement in UN human rights conventions (such as CEDAW) requires it to defend transgender rights. Projects in these areas,

such as healthcare, legal assistance, and anti-violence movements, are being funded by the EU and USAID. Global support may encourage governments to tighten the rules surrounding the 2018 Act.

5. Reconciliation in Culture and Religion: In previous times, the Khwaja Sira (transgender) community was recognized in Mughal society and among Sufi followers. People supporting transgender rights are reminding others that Islamic principles like dignity and justice can explain these rights. Cooperating with scholars such as Mufti Abu Layth helps create more understanding and prevent harmful points of view about religion.

Discussion

Even though there has been much work done on establishing transgender rights in Pakistan, there is still more to do to guarantee everyone's rights. For example, the Transgender Persons (Protection of Rights) Act of 2018 gave legal status and certain rights to transgender persons. Even with legal action taken, there has been little enforcement because of the stigma faced by such couples. Due to discrimination in healthcare, education, and jobs, these rights have not been achieved for everyone. Yet, since court judgments on transgender rights vary, it has been hard for the courts to support them, which has led to challenges when implementing similar policies.

The law in Pakistan can be assessed and measured with global guidelines to identify areas where improvements could be made. Both Argentina and India have created policies that others can learn from. According to Argentina, people can choose their gender freely and communicate it without seeking medical help, so adopting this rule in Pakistan could be more effective. Besides, European legal systems have put in place anti-discrimination laws to prevent any form of employment discrimination in the workplace.

Therefore, we should work on several fronts, such as stricter law enforcement, increased education for everyone, and better inclusion of civil society groups. Consequently, governments should concentrate on easing the process of getting gender-affirming papers, ensuring equal healthcare for everyone, and preventing discrimination at work. Building a legal system that upholds transgender people's rights

involves support from governmental and non-governmental organizations.

Conclusion

Transgender people have rights in Pakistan according to the law, but still, their acceptance is uncertain, and rules are often not upheld. While this law is supposed to protect transgender people, they still face discrimination, shortage of healthcare, and weak enforcement of the law. According to international standards, Pakistan could take steps to include all genders in its statutes and strengthen rules against discrimination. These matters are resolved with the input of policymakers, judges, and civil society groups working as a team. By law, transgender individuals should be protected equally, with equal chances in society, the opportunity to identify gender, and equitable access to healthcare. In different parts of the world, some places are making policies for all, yet others are not as quick. Ensuring laws adhere to human rights globally and sustained action towards those laws is required to remove barriers to dignity among the population.

Recommendations

Although transgender rights are recognized by the law, the rules are usually not applied, and their acceptance is not assured. The Act provides a ground for legal rights, yet it is still hard for transgender people to avoid discrimination and poor healthcare, as there is not much protection against those challenges. There are rights for transgender individuals in Pakistan. However, those rules are not always respected. The law should protect transgender individuals, but they still deal with discrimination, lack of health care, and weak enforcement.

It would improve Pakistan's laws and equality if the government could fight all forms of gender discrimination under international guidelines. The issues are settled by the efforts of policymakers, judges, and groups from civil society working as one. According to the law, transgender people should enjoy the same rights and treatment as anyone else in society. In various parts of the globe, there are places creating policies for everyone, but the same cannot be said of all places. International laws should support human rights, and people should continue to implement these laws to help all members of the population experience dignity.

Research Limitations

The scope of this study consists of legal analysis only and does not include any primary data obtained from transgender persons. Therefore, the research does not hold the lived experiences and personal difficulties encountered by transgender people in Pakistan. Furthermore, depending on the region and culture, the legal interpretations can differ, limiting the generalization of the findings.

Secondary data is another limitation, as it may not adequately capture recent policy or social attitudes changes. In an effort to include the most recent research and legal developments, the field of transgender rights is, inevitably, constantly developing. To this end, this study does not incorporate transgender rights where they intersect with other marginalized identities, including socioeconomic status and disability. In the future, qualitative data and firsthand experience should be incorporated into researching transgender rights and legal protections in Pakistan.

Research Implications

The study on transgender rights in Pakistan has various implications. It's Time to bring sex traffickers to justice by reforming our policies and enforcing them. Research can also uncover weaknesses in the implementation of the Transgender Persons Act 2018, encouraging legislatures to plug loopholes (e.g., their property laws) and fund anti-discrimination institutions. Research around cultural bias and violence can be used to guide campaigns, using media and religious leaders to change public opinion and to help reduce family exclusion. Research on healthcare exclusion can push for gender-affirming care integration into public health systems and sensitize medical staff to transgender needs. Evidence-based findings can align grassroots efforts with international human rights frameworks (e.g., UN recommendations), attracting funding and pressuring Pakistan to meet global standards.

Future Research Directions

1. Fighting against Societal Stigma: Research records that denounce cultural prejudices and aggressiveness may be used in creating awareness initiatives to transform the societal outlook and reduce family rejection.

2. Legal Empowerment: An analysis of how the judiciary handles transgender cases can strengthen the legal aid programs and equip the law enforcers who protect the rights, ensuring that the police are not enablers of these abuses.

3. Healthcare Equity: Investigating healthcare exclusion can advocate for the integration of gender-affirming care into public health systems and raise awareness among medical staff about the needs of transgender individuals.

4. Global-Local Advocacy Synergy: Evidence-based findings can connect grassroots initiatives with international human rights frameworks (like UN recommendations), drawing in funding and urging Pakistan to align with global standards.

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