



**RESEARCH PAPER**

**Legal Rights of Transgenders in Pakistan: Theory and Practice (Case Study of Faisalabad Division)**

Muhammad Arslan<sup>1</sup>, Dr. Muhammad Nawaz Bhatti<sup>2</sup> Dr. Ghulam Mustafa<sup>3</sup>

1. BS Political Science, Department of Political Science and International Relations, Government College University, Faisalabad.
2. Associate Professor, Department of Politics and International Relations, University of Sargodha, Sargodha, Punjab, Pakistan
3. Assistant Professor, Department of Political Science and International Relations, Government College University, Faisalabad, Punjab, Pakistan

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**ABSTRACT**

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**Corresponding**

**Author:**

arslanjabbar78@gmail.com

This paper examines the rights of transgenders passed by the Government of Pakistan and their implementation in the country specially focused on Faisalabad division. In Islam every human has equal rights, but in Pakistan it is hard to say that "Transgender" has been neglected or being ignored by the governments and society. This paper highlights various issues faced by this community in Pakistan. The research is based on Primary data and analysis of this paper shows that Government fails to implement passed law regarding this marginalized section of the society. There should be need to provide education, health and economic opportunities for this community.

**Introduction**

Gender is recognized as vast phenomenon to describe the sexual characteristics of human being and identifies or discriminates male and female" (Little, 2012). Transgender is a term showing those persons whose sexual identity is vague and cannot be confirmed as male and female genders. Therefore, transgender is related to third gender they are not identical to full male or female. But some people they are very much found of to be transgender and they change their lifestyle so they are also called as transgender.

It is hard to say that in Pakistani society they are recognized as social outcast and called distinct names like Murat, Hijra, Khawja Sara and Khusra and marginalized to make dance at different festivals like birthdays, Eid festivals and

marriage ceremonies. They are deprived from their basic rights as well as ignored in every walk of life in Pakistan. Their life is too miserable to get high ranks in society. Such kind of circumstances compels them to be baggers and the part of other social evil of society. In accordance with new survey reports the generation of transgender is aggrandizing in Pakistan and one third children out of fifty are related to third gender or transgender (Saddique & Cang, 2017).

The recognition of transgender or third gender is not bearable to their families they feel shame and want to kill them because considering burden over family. Although this is natural phenomenon yet the only transgender have to face discriminations at everywhere including families, schools, colleges, universities and social platforms. With the consonant of the articles 4 and 9 of constitution 1973 Pakistan Supreme Court admitted to equal rights of transgender as well as the former federal and provincial legislatures had accepted to give fundamental rights including right to employment, right to get education and right to take positions in distinct government institutions for long time span in 2013. The landmark ruling stated that as "citizens they were entitled to the equal benefit and protection of the law and called upon the Government to take steps to protect Transgender people from discrimination and harassment" (Iqbal, 2009).

Along with this, in the tenure of the former Chief Justice of Pakistan Iftikhar Chaudhry the mentioned rights were extended to transgender. In 2010 the Supreme Court of Pakistan gave full recognition to the rights of transgender community by ensuring free medical allowance, free education and giving help in microcredit scheme and job quotas as well in every government department (Pakistan Today, 2017). Beside this, the Lahore High Court promulgated an order for the first time to be including the transgender in census of Pakistan in 2017. As well as the senate committee mad a resolution to accept property rights of transgender and third gender could be able to inherit property from their families (Mustafa, 2017).

Though the Government of Pakistan tried to give proper rights to "Transgender" through legislation but still this community is feeling alignment and suffers a lot. In practice however "Transgender" people in Pakistan are often marginalized and face discrimination in education and jobs. Many live in secluded communities and have no choice but to beg on the streets or sing and dance at private parties to earn a living. Some also turn to prostitution to make ends meet. The law requires the government to set up dedicated safe spaces with medical and educational facilities where they would be free from harassment. The need is the era to do something for the betterment of this community because they are all human as according to article 1 of Universal declaration of Human rights "All human beings are born free and equal in dignity and rights" (UN General Assembly, 1948).

## **Literature Review**

“Legal rights of transgender in Pakistan: Theory and Practice” is a unique topic because very limited research has been done on this issue. Internationally Issues and life of transgender was highlighted by the lot of researcher but in Pakistan no efforts were taken to elucidate this topic. Very less literature is available on the topic that’s why the researcher collected primary data to complete this research report. “*Transgender Rights*” by Isma Sharafat Raja published in dawn newspaper in December 5, 2015. This paper elucidates the work of NGOs for Pakistani transgender community. According to this paper NGOs and government such a few work for transgender community in Pakistan. The facilities and legal rights are insufficient for living. At least 50,000 transgender living in Pakistan and given rights are insufficient for them. They cannot take their dignity in Pakistani conservative society. This paper pointed out their life situation under the mercy of the society. This paper force that they must be treated like human and give them normal life(Sharafat, 2015).*Education, Employability and shift of Occupation of Transgender in Pakistan, A case study of Khyber Pakhtunkhwa*” by Naila Nazir & Aqsa Yair. This research focuses on the transgender abilities and the hidden skills for study field and other technical works. This research basically focuses on the transgender of five districts in the Pakistani province Khyber Pakhtunkhwa (Nazir & Yasir, 2016).*“Human Rights and Transgender people in Pakistan”* by IGLHRC published in February 2008. This report basically focuses on the transgender rights in Pakistan and their miserable situation. They victimize by the rape and discrimination in Pakistan(UN Human Rights Council , February 2008).*Transgender in Pakistan: A Forgotten People by Alec Forss and Humaira Israr*. This research points out the conservative mind setup of the Pakistani society. This study also pointed out the participation of the transgender community in general elections. But lack of support they cannot get any seat in Pakistani society. But this community worked hopefully for their equal rights day by day(Forss & Israr, 2016). *With Transgender Rights, Pakistan has an Opportunity to be a Path breaker* by Rimmel Mohyidin published in December 10, 2018. In this article, the author highlighted the rape case of young 18-year-old transgender. This transgender raped by nine men. After this big incident and highlighted by various journalist then national assembly take a step and make the act known as (protection of Rights) for this community (Mohyidin, 2018).*“Pakistan’s Transgender Community Takes Another Step Forward”* by Sabrina Toppa published in 5 March 2018. In this paper basic focus on the views of transgender people and their feeling toward other gender and their attitude. *“Silent No More Transgender Community in Pakistan”* by Aurat Foundation USAID. This research is a part of Aurat Foundation in Pakistan and in this research their basic focuses on the Gender Equity Programme GEP. According to this programme they tried to minimize the gender gap in Pakistani society. The core objective of this research the control and minimize the Gender Based Violence GBV.

## **Hypothesis**

H1: Social adjustment of “Transgender” is not able, because Government Policies are insufficient in Pakistan.

## **Material and Methods**

This research is a combination of qualitative. Both primary and secondary data has been collected to interpret and analyze the research. The interviews have been conducted through questionnaire in a semi structured manner. Interviews are fairly quick to conduct which means that many interviews can take place within a short amount of time. In-depth interviews have been conducted from “Transgender” individuals who provided information on thematic areas being probed. These individuals have been identified and shortlisted through the group discussions. Secondary data has been collected through secondary sources to elaborate and elucidate the research. Secondary data is based on books, articles, reports etc.

## **Research Design**

To collect data from Transgender to investigate their legal rights given by the Government of Pakistan and its Implications on transgender Community. The reliable and concerned data is very inevitable to make authentic research and in extracting such kind of information the method of conducting research work does play indispensable role. In this regard, after having in-depth and insightful study about two renowned methods known as qualitative and quantitative, the former means qualitative method was chosen because most of Transgender were unable to provide statistical data due to dearth of education. The entire research has been conducted by deploying qualitative method to gather data from Transgender people of Pakistan. The Research is limited to Faisalabad Division because of the limited access to these peoples.

## **Sample Size**

The sample size of this research was (N=40). The purpose of present research was set in investigating the legal rights of transgender as well as the effect of Government Policies to eradicate discriminations against them. The respondents of the research work were Transgender People of Faisalabad Division.

## **Data Collection Procedure**

For collection of data or information from selected Transgender of Faisalabad division to probe the legal rights and its implication on the community, it was decided to use a semi structure interview method. In the ice breaking session the researcher plans to ask the Transgender about their rights, people behavior towards them before and after the passing of act, tolerance acceptance of

family, and their source of income. After the ice breaking session, the researcher plans to switch to more specific questions to them regarding their dreams in future and issues they are facing in society that is entirely different from the West. As the specific process of semi structure interview requires the interviewer to ask question from experts in accordance with the answer of previous question given by the respondents, so that relevant information was taken out is obtained from the process of this data gathering process. The open ended questionnaire was made English and translated in Urdu so that the interviewees can understand. The researcher approached different transgender of Faisalabad division, visited personally in their residence like in Jhang, Gojra, 18 Hazari, Jaranwal, Toba Tek Sing and Chiniot. A conceptual framework is as a tool and technique to analyze distinct variations and formulate conceptual or organized ideas. The insightful framework is considered to be very fruitful to make variations to be more attractive and real for application of data. Legal Rights and Government Policies are independent variable of this research and Condition and Current Situation of Transgender are dependent variable in this study. The limited number of respondents consisted of 50 who were visited; discuss the research and their potential role in the success of the research. The researcher met the respondents one by one to collect respective data for the completion of research work.

### **Qualitative Research Approach via Semi Structure Interviews**

In qualitative research approach following questions were asked from the (40) respondents selected 10 from Each District of Faisalabad. Semi structure Interview Protocol

Sr. #	Question
Question 1	How old when you separated from parents and what about toleration of your personality by your parents?
Question 2	What about old ages transgender person when they cannot earn money? And Any aim of your life?
Question 3	How much feel security from harassment after the passing bill? And How much improved behaviour by the society when you have legal rights against violence?
Question 4	Would you like marry? If yes you like to marry in your own community or out of community?
Question 5	What challenges you are facing in CNIC making? And What is police attitude/Behaviour on your complaints?

### Data Analysis

To analyze the collected data from concerned respondents consisted of national players, coaches and managers of hockey and the descriptive analysis method was used. The conducted interviews have been described individually by making coding and the respondents of the research work were 20 belong to distinct departments. The personal information of respondents was given under the below table that elucidates the designation, department and coding.

Coding	Respondents Names/Famous Name	Residence	Age In Years
A-1	Muhammad Arslan/ Asma Khan	Jhang	27
A-2	Rab Nawaz/ Babli	Jhang	66
A-3	Muhammad Mushtaq	Jhang	51
A-4	Umair/ Nayab Khan	Jhang	21
A-5	Shabbo	Jhang	43
A-6	Laali	Jhang	42
A-7	Zoeya	Jhang	21
A-8	Shevania	Jhang	18
A-9	Kajol Malhtra	Jhang	26
A-10	Heera Malik	Jhang	18
A-11	Chahat Butt	Chiniot	23
A-12	Kajol	Chiniot	26
A-13	Aashi	Chiniot	33
A-14	Muhammad Rafiq/ Babli	Chiniot	50
A-15	Farah	Chiniot	40
A-16	Arshad Hussain/ Shamah	Chiniot	65
A-17	Sonia	Chiniot	25
A-18	Akhtar/Stylish	Chiniot	28
A-19	Riaz/ Aysh	Chiniot	18
A-20	Tabish / Chandi	Toba Tek Singh	21
A-21	Ahmad Raza/ Roshni	Toba Tek Singh	19
A-22	Wajahat/ Qismat	Toba Tek Singh	19
A-23	Akhter Ali	Toba Tek Singh	65
A-24	Mahmood/ Moodi	Toba Tek Singh	65
A-25	Povan Naz	Toba Tek Singh	27
A-26	Nomi	Toba Tek Singh	30
A-27	Shahzad Khokar/ Kirn Shahzadi	Toba Tek Singh	35
A-28	Rubab/ Dia Mirza	Toba Tek Singh	27
A-29	Farah	Toba Tek Singh	22
A-30	Tanveer Husain/ Nisha	Toba Tek Singh	28
A-31	Saima Kham	Faisalabad	32
A-32	Adnan Saeed/ Sitara	Faisalabad	26

A-33	Chanda	Faisalabad	32
A-34	Deedar	Faisalabad	27
A-35	Sonia	Faisalabad	23
A-36	Bali	Faisalabad	43
A-37	Asia	Faisalabad	59
A-38	Zaryab	Faisalabad	28
A-39	Muhammad Shakeel/ Deedar	Faisalabad	25
A-40	Bilal/Chandni	Faisalabad	28

\*Data collected by the author

## **Results and Discussion**

### **Discussions**

In this research work the collection of data or information from selected cluster of Transgender for identifying their legal rights and its implications in Pakistani Society. The research is limited to Faisalabad Division and data collected from Four Districts of Faisalabad. The researcher personally visited the different areas of district Faisalabad, Toba Tek Singh, Chiniot and Jhang.

During the visit, the researcher observed that mostly transgender separated from their family within the age of 10-15 years. They want to stay with their parents but due to society behavior, they left their homes. Very limited transgender accept that they have good relations with their family and they go home. The researcher saw their CNIC and some of them mentioned Transgender on it. They have reservation and facing issues regarding the she males. One of the transgender said that those who are not transgenders but act as a transgender, spoiling the rights of the original transgenders.

When the researcher asked the question about how transgenders earn money when they get old? The answer is that “we respect them as parents and the Chellas support them when they are not able to earn money”. The chella earn the money and give share to Guru. Some transgender reply that “they begged and live a very miserable life”.

When the researcher asked them about “any aim of life”, almost 70% asked to perform Hajj or want to visit religious Holy Places. Mostly this answer was given by the old transgenders and remaining 30% transgender wish was to do business and live a comfortable life in own property. Some of the transgender want to become super modal and earn fame in the field of showbiz.

When the researcher asked the question about the “bills passed by the Government”, mostly population showed unawareness and they had no information about any bill. Only limited person show awareness about their rights and the government policies. When the researcher asked them about the people behavior after the passing of bill limited persons shows the positive answer.

Almost 30 percent persons says that a minor change in positive manner and the 70 percent people says that no change. They face the same behavior/situation like before the bill. They face that unbearable and unethical attitude by the society. They show their torn clothes while they wear. They face a miserable life on the mercy of the society.

When the researcher asked them “about their feeling of Marriage”, Almost 90% transgender said “we have no feelings of Marry” “we are transgender, my dear researcher we are transgender and transgender have no feelings of marriage”. Remaining 10 %said they want to marry but community did not accept it.

The question about issues facing during CNIC making, they said that they are facing problem when Guru and the parents not supporting them. Mostly transgender made CNIC because of helping attitude of Guru. Some transgender faced problems because of documentation and did not make the CNIC yet. The attitude of the police towards them, the researcher observed that more than 50% transgender facing problems from the Police, 30 % said that Police have very good behavior about their complains. Remaining 20 showed that they have never suchtype of experiences.

### **Conclusion and Recommendations**

The main objective of the research work was to elucidate the legal rights of transgender: Theory and Practice. The research is limited to Four districts of Faisalabad; Toba Tek Singh, Chiniot, Jhang and Faisalabad. Though Government of Pakistan passed many bills to protect the rights of these peoples like Act No. XIU of 201 8, the chapter III of this bill about “recognition of identity of transgender person”. The Government of Pakistan gave proper right and allows them to make CNIC and they have the equal rights as compare to male and female. The Supreme Court of Pakistan also gave judgment to protect the rights of these peoples. But the Pakistani society is not giving social acceptance and they are deprived of their basic rights. They entertain the Pakistani people in dance functions and parties but they live a very miserable life. They lived in a very down houses without any necessities of life. People tease them and mocking. When they enter in public places for earn money, they were behaved scornful attitude from the peoples.

### **Recommendations**

In accordance with the objectives of the research to make some recommendations for those people who is striving for their rights, Transgender among of them.

- There should be need to focuses on the old age transgender because they have nothing for their old days. There should be give them proper support

in the shape of monthly fund by the government then they spend their life without the mercy of society.

- There should be given proper education facilities where they learn and become respectful citizens. Specially provide them separate education system then they get education without discrimination because they cannot get proper education with the other students.
- There should be need to provide them proper health facilities and must be prepare separate ward for this community. It should be provide in government hospitals in every district level.
- There should be need to give them proper platform for earn money where they can show their talent also.
- The Government should arrange seminars/workshops in the favour of transgender.
- The government should give them proper job in which they can satisfied like in India, the tax collect department hire transgender to collect the revenue from the people.
- People sometimes intend to be supportive but unintentionally hurt transgender people by focusing on their looks or whether they conform to gender stereotypes. The people should do their business and not to pass compliments on these people, they are human being.
- The Government should collect the data of transgender and those who are not naturally transgender should be punished.

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