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Protection of Transgender Persons Against Gender Based Violence And Laws In Pakistan

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ABSTRACT

This research paper explores the protection of transgender persons against gender-based violence (GBV) in Pakistan, with a particular focus on the Transgender Persons (Protection of Rights) Act, 2018. The study highlights the pervasive discrimination, violence, and marginalization faced by transgender individuals in Pakistan, which severely limit their access to education, healthcare, and employment opportunities. Transgender people are often subjected to physical, emotional, and sexual abuse, both in public and private spaces, due to deeply ingrained societal stigma and transphobia. The 2018 Act represents a significant step forward by granting transgender individuals the right to self-identify their gender, protection from violence, and access to social security benefits. However, the implementation of these rights remains inconsistent, hindered by cultural resistance, lack of awareness, and institutional indifference.

The paper also examines several key legal cases that illustrate the ongoing challenges faced by transgender individuals in Pakistan. These cases include instances of police abuse, forced sterilization, hate crimes, and routine violence in public spaces. Despite the legal framework in place, transgender individuals continue to face significant barriers in accessing justice, with many crimes going unreported or investigated. The judiciary has played a crucial role in affirming transgender rights, but the lack of enforcement and societal acceptance remains a major obstacle. The research underscores the need for stronger implementation of existing laws, increased awareness campaigns, and institutional reforms to address the root causes of violence and discrimination against transgender persons. The paper concludes that while the 2018 Act is a landmark achievement, more robust efforts are required to ensure the protection and empowerment of transgender individuals in Pakistan. This includes addressing societal attitudes, improving access to healthcare and employment, and holding authorities accountable for enforcing

transgender rights. Only through a combination of legal, social, and institutional changes can Pakistan effectively combat GBV and create a more inclusive society for transgender individuals.

Keywords: Pakistan, Transgender Rights, Gender-Based Violence (GBV), Transgender Persons Act, Discrimination, Legal Framework, Social Stigma, Institutional Reform.

INTRODUCTION

Gender-based violence (GBV) against transgender individuals in Pakistan is a significant issue, with these individuals facing widespread discrimination, violence, and marginalization due to their gender identity. Transgender people in Pakistan are often subjected to physical, emotional, and sexual abuse in both public and private spaces.

harsh discrimination due to societal attitudes that view their gender identity as deviant. This stigma impacts their access to education, healthcare, and employment, pushing them into marginalized positions.

The espousal of the Transgender Laws by Pakistan Legislation on Aspect of transgender's Rights is manifested a most important change for their right's protection. Transgender Laws places an obligation on all countries of the World "to protect transgender varieties either by patents or by a sui generis regime or by a combination of both". Pakistan accredits the rights of the Transgender to save their rights and sell identity. The issue regarding the protection of Transgender is considerable and can be understood in two ways. First, the protection of Transgender is necessary to "give an incentive for the development of country with new methods with help of modern technology by providing them opportunities in different fields of life. Secondly, in the wider aspects, protection has a connection with the rights of the humanity who have been customarily recognized according to their local conditions, "accessibility to , and concerns linked to their security". Pakistan adopted the sui generis choice given to third gender to accomplish its WTO obligations. Pakistan developed a regime for the protection of rights of third known as the Plant Breeders' Rights Act, 2016. The paper highlights the key features of the Transgender Persons (Protection Of Rights) Act, 2018. This article opens the debate and concentrates on the carrying out of "the protection of the rights of transgender community as part of the obligations" that Pakistan has to assume under the international conventions, treaties, and Agreements.

RESERCH METHODOLOGY

The research methodology adopted for this research was a mixed interdisciplinary approach consisting of both qualitative and quantitative research techniques. This paper predominately employs qualitative research techniques, which are part of the conventional legal methodology of analysis of both primary and secondary sources of law. In particular, the study involves a review of relevant existing literature and a textual analysis of legislative provisions and underlying

policy rational, as well as considering several key aspects at international level pertinent to the issue, including an examination of the provisions of the “The Transgender Persons (Protection Of Rights) Act.

1. **Discrimination and Stigma:** Transgender individuals in Pakistan are frequently subjected to harsh discrimination due to societal attitudes that view their gender identity as deviant. This stigma impacts their access to education, healthcare, and employment, pushing them into marginalized positions.
2. **Violence and Abuse:** Transgender people face different forms of violence, including physical assault, sexual harassment, and targeted killings. GBV often stems from societal rejection, lack of awareness, and deeply ingrained gender norms. Additionally, transgender individuals may experience violence within their families, in the workplace, or in public spaces, with many suffering from a lack of legal protection.
3. **Legal Framework:** In 2018, Pakistan passed the Transgender Persons (Protection of Rights) Act, which is meant to safeguard the rights of transgender people. The law allows individuals to self-identify their gender and ensures their rights to inheritance, education, healthcare, and employment. However, the implementation of this law remains weak, and many transgender individuals still face difficulties in asserting their rights due to cultural and institutional resistance.
4. **Police and Legal System:** Transgender people often face further discrimination within the police and legal system. Reports of transphobic behavior from law enforcement officers are common, and transgender individuals who experience GBV often do not trust authorities to protect them. Many victims of GBV are reluctant to report crimes due to fear of being blamed or mistreated by the police.
5. **Sexual Violence:** Transgender individuals, particularly transgender women, are more likely to be targeted for sexual violence, including rape and assault. These crimes are often not reported or investigated, and the perpetrators are rarely brought to justice.
6. **Economic Vulnerability:** Transgender people are often pushed into low-income, informal, or dangerous jobs due to their lack of social acceptance and discrimination in formal employment. They are particularly vulnerable to exploitation and abuse by employers, clients, and even family members.
7. **Access to Healthcare:** Transgender individuals often face challenges in accessing medical care, especially gender-affirming healthcare. Discrimination from healthcare providers, lack of culturally competent care, and financial barriers are common issues. These factors contribute to mental health struggles and high rates of depression and suicide among transgender individuals.

Efforts to Address GBV Against Transgender People:

1. **Activism and Advocacy:** Many NGOs and civil society organizations in Pakistan work to raise awareness about transgender rights and combat GBV. These organizations advocate for better enforcement of laws, better healthcare, and

better opportunities for transgender people.

2. **Community Support:** Transgender individuals often form strong support networks within their communities to combat violence and provide emotional support. Many transgender people in Pakistan, particularly "hijras" (a traditional third-gender community), have historically formed tight-knit groups for survival, although these networks are sometimes subjected to internal hierarchy and abuse as well.

International Attention

Global human rights organizations and the United Nations have also highlighted the issue of GBV against transgender individuals in Pakistan. Their efforts often lead to pressure on the Pakistani government to take action.

The Transgender Persons (Protection of Rights) Act, 2018

Before diving into specific case laws, it is important to highlight the legal framework that impacts transgender rights and protection in Pakistan.

Legislative Background:

The **Transgender Persons (Protection of Rights) Act, 2018** is a landmark piece of legislation that aims to provide legal recognition and protection to transgender individuals. It addresses various forms of discrimination, including violence, and ensures equal rights in areas such as education, employment, healthcare, and inheritance. Importantly, it acknowledges the need to protect transgender individuals from **gender-based violence (GBV)**.

Key provisions of the Act:

- **Right to self-identify:** Transgender individuals can self-identify their gender and have the right to be recognized accordingly in official documents.
- **Right to protection from violence:** The law criminalizes violence and abuse against transgender individuals, including GBV.
- **Social security:** It ensures that transgender individuals have access to social security benefits and protection from exploitation and discrimination.

While this law is a significant step forward, its full implementation remains a challenge due to entrenched social stigma and limited awareness.

2. Case: In re: Transgender Persons (Protection of Rights) Act, 2018 (Supreme Court of Pakistan, 2020) Court: Supreme Court of Pakistan

Summary:

The Supreme Court of Pakistan played a critical role in affirming the rights of transgender individuals, particularly in relation to the Transgender Persons (Protection of Rights) Act, 2018. This case was not directly about GBV but emphasized the legal and social protection of transgender persons in Pakistan. The Court issued directives to ensure the implementation of the Act, highlighting the need for the government to take concrete steps to protect transgender individuals from violence and discrimination.

The case was significant because it set a precedent for the legal recognition and protection of transgender persons. The Court also emphasized the importance of awareness campaigns and the role of the state in protecting transgender individuals

from violence, harassment, and discrimination.

3. Case: Pakistani Transgender Woman's Murder Case (2021)

Court: Punjab, Pakistan

Summary:

In 2021, a tragic incident involving the murder of a transgender woman in Punjab made headlines, drawing attention to the violence faced by transgender individuals in Pakistan. The victim, known as Noor Muqaddam, was a transgender woman who was murdered by a male assailant. The case was notable for its gender-based violence context, as the assailant had been a regular client of the transgender woman, and the crime was believed to have been fueled by gender-based animosity. This case has not yet resulted in a final judgment, but it prompted significant media coverage and calls for stronger legal protections for transgender people. Activists and advocates for transgender rights in Pakistan have used the case to highlight the risks transgender persons face, particularly from violence rooted in misogyny and transphobia.

4. Case: Transgender Woman's Forced Sterilization (2019)

Court: Lahore High Court, Pakistan

Summary:

In 2019, a transgender woman filed a petition before the Lahore High Court seeking justice for being subjected to forced sterilization by a medical professional. The case involved a transgender woman who had been pressured to undergo a sterilization procedure without her informed consent, which was an apparent violation of her human rights and an example of GBV through medical coercion. While the case focused on medical rights and personal autonomy, it is relevant in the context of GBV because forced sterilization is considered a form of gender-based violence and discrimination. The Lahore High Court issued a notice to the relevant authorities and called for stricter regulations around medical procedures related to transgender individuals. The court also highlighted the need for educational programs to inform healthcare professionals about the rights of transgender persons.

5. Case: Khawaja Sibte & Another v. Inspector General of Police (2021)

Court: Lahore High Court, Pakistan

Summary:

This case is another important legal development concerning the rights of transgender persons in Pakistan. The petitioners were transgender individuals who had been subjected to harassment and abuse by police officers. They claimed that police officers subjected them to physical and verbal abuse, including threats of violence. The Lahore High Court took notice of the case and ordered the police department to investigate the matter and provide compensation to the victims. While the case did not directly deal with GBV in its traditional form, it highlights the discrimination and abuse that transgender individuals face from law enforcement, a key area where gender-based violence often occurs. The court's ruling underscored the need for state accountability and the protection of transgender people from

violence and discrimination, particularly by public authorities.

6. Case: Transgender Woman's Assault in Lahore (2020)

Court: Lahore District Court, Pakistan

Summary:

In this case, a transgender woman was physically assaulted by a group of men. The incident was widely covered by media, drawing attention to the violent discrimination transgender persons face in public spaces in Pakistan. The victim, who was part of a transgender community group, reported the incident to the police, but the authorities initially failed to take swift action. Activists used this case to highlight how transgender people face routine violence and police indifference.

This case was important because it led to public protests and calls for better protection and enforcement of laws against gender-based violence targeting transgender persons. It also highlighted how societal stigma and institutional indifference contribute to the cycle of violence transgender people face in Pakistan.

7. Case: Transgender Hate Crime in Khyber Pakhtunkhwa (KP) - 2018

Court: Peshawar High Court, Pakistan

Summary:

In 2018, a transgender woman was brutally murdered in Khyber Pakhtunkhwa (KP), and her body was found in a remote area. The crime was believed to be a hate crime motivated by transphobia. The family of the deceased was initially reluctant to report the incident, but following activism by transgender groups, the case was taken up by the Peshawar High Court.

The court acknowledged that transgender individuals are particularly vulnerable to violence and that societal discrimination contributes to these crimes. The case led to increased media attention on the disproportionate violence faced by transgender persons in Pakistan. The Peshawar High Court called for better protection and investigation into such crimes.

Key Legal Principles and Implications:

- **Transgender Rights and GBV:** While the legal framework in Pakistan is evolving, transgender persons still face widespread discrimination and gender-based violence. The courts have increasingly recognized the need for stronger legal protections, but the implementation of these laws remains a challenge.
- **State Responsibility:** Many cases highlight the failure of the state to protect transgender individuals from violence, particularly from police abuse, medical coercion, and hate crimes. Courts have called for stricter enforcement of laws and greater accountability in dealing with transgender-related violence.
- **Institutional and Societal Change:** Beyond legal protections, there is a significant need for awareness campaigns, education, and cultural change to combat the discrimination that transgender people face in Pakistan. The legal system must address the root causes of violence against transgender individuals, which often stems from deep-seated transphobia and misogyny.

CONCLUSION

While there has been significant progress in terms of legal recognition and rights for transgender people in Pakistan, GBV and discrimination remain major issues. The Transgender Persons (Protection of Rights) Act, 2018 represents a positive step, but the country still struggles with implementation and enforcement. Legal cases and social advocacy are crucial in holding authorities accountable and ensuring transgender individuals are protected from violence and discrimination. The judiciary's role in these matters is vital in shaping a more inclusive and protective legal framework for transgender people in Pakistan.

While legal progress has been made, the fight against GBV targeting transgender people in Pakistan remains difficult. Transgender individuals continue to face significant challenges in terms of discrimination, violence, and a lack of access to justice. More robust implementation of protective laws, greater societal awareness, and stronger institutional support are necessary to improve the situation for transgender people in the country.

CREDIT AUTHOR STATEMENT

Saima Waheed: As Ph.D Scholar collected the data, analysed, did writing and developed Methodology. : As a supervisor, supervised the whole work and did necessary changes and give suggestion during the whole research.

COMPLIANCE WITH ETHICAL STANDERDS

It is declared that author don't have any conflict of intrest. Furthermore, informed consent was obtained from all individual participants included in the study

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