

Identity Crisis and Rights in Trouble: Transgenders in Islamic Republic of Pakistan

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ABSTRACT

Transgenders have been facing grim situations since ages and in Pakistan since its inception. They have been murdered, raped, sexually abused, physically victimized, and discriminated in all fields of life. In wake of their grievances Supreme Court of Pakistan has laid down a milestone whereby they are recognised as subduct of human rights and allowed them to be a part of mainstream of society. However, at institutional level in Pakistan, whether it relates to education, health, or any other domain, it needs severe scrutiny for the implementation of the rights given to transgenders. Moreover, society as a whole, needs a big transition and drastic change of behaviours to be receptive and inclusive, so that the complexes faced by the transgenders through centuries be redressed and cured.

Keywords: *Human Rights, identity crisis, transgenders, Constitution, Pakistan*

Introduction

A suitable identification of gender plays an important role in the psycho-social stability of humans. Crisis in gender identity may lead to many problems including lower self-esteem and confidence in a person. It leads to a problematic social life which then results into alienated economic and political life. (Veiss, 2009) Acceptance of majority norms prevalent in a society is considered as normalcy. Transgenders do not fit into the binary gender definition of humans in a society which serve as a dominant majority. (AG, 2010) There is an on-going struggle of transgenders to get adjusted into the mainstream of society throughout the world. But they find it really difficult as they face many challenges and hardships in their daily lives. Term transgender is used for the people who have confused gender identity. Some people are transgenders by birth, and some chose to be transgender out of their will because they want to be like their opposite gender. (Veiss, 2009) In Pakistan, there are normally transgenders by birth. There might be a small portion of transgenders by choice, but they remain under the curtain because it is considered as taboo.

It is only when the Britain came in the subcontinent, transgenders were criminalized and Act of criminal tribes, 1871 was passed against them and they were cursed as sex workers and alienated in society. Before their arrival in the subcontinent transgenders were considered to be a reverent community during Mughal period. They were appointed as guardians of 'zanan khana' and were called as 'khawja sara'. (Shah, 2018) They then held a special recognition and a very respectable place in society. They were revered for various reasons and it was believed that their prayers are not turned down because they do not commit the basic sins which normal humans do. In Mughal period khawja sara's used to celebrate the birth of a newborn child by dancing they were then rewarded with cash and other gifts in return. (Shah, 2018) The response of people towards them was more receptive and less stigmatised as compared to today.

Transgenders in Pakistan are believed to be a destitute community living a life of misery and helplessness. They are facing a number of challenges in their daily lives. Since a long time, they are not in mainstream line of employment in Pakistan. They are forced to earn their livelihood as sex workers, beggars on roads and entertainers or dancers in festivals, which is not considered a respectable mode of earning in Pakistani society. Transgenders have not been considered a part of society as they have been marginalised for a long time. Their rights have not been considered and accepted, they have been bullied and harassed by the normal people, they have been called by the derogatory words like 'hijra' or 'khusra'. (Siddique, 2017) In short, they have not been granted a respectable place in Pakistani society for a long time and they have been facing grim situations and sub-standard living in Pakistan.

It is not long ago when the voices have raised for the respectable rights of transgenders in society. They have been demanded to be given equal rights of identity, education and to be entered in mainstream of employment. Pakistani government apparently took measures and passed bills in parliaments for the protection of their rights but remained unable to enforce these laws in a long run. Question here arises that has Pakistan failed in ensuring rights to transgenders?

The general provisions of basic human rights in the constitution of Pakistan demand to ensure basic human rights to transgenders in Pakistani society. For that reason, in 2011 supreme court accepted and recognized the rights of transgenders in constitutional petition No.43. Resultantly they were legally accepted in society as transgenders and national database authority for the first time was ordered to administer them and register their distinct identity. (Ingber, 2018) Supreme court of Pakistan also took measures against their socio-economic alienation in the society and federal and provincial governments were directed to address their issues on priority level and to add them into the mainstream of Pakistani society through their welfare mechanism. Transgenders for the first time were given separated identity and the right of inheritance in both moveable and immoveable property. for the inheritance purpose, parliament of Pakistan legislated and passed a bill on may 18, 2018. (Ahsen, 2019) After the assent of president of Pakistan, this bill was published in the Gazette of Pakistan.

In this bill, passed by the legislation of Pakistan, rights of transgenders are covered comprehensively and in a holistic manner. A number of chapters are comprised upon rights of transgenders in all fields of life. There is a complete chapter about prohibitions of discrimination against transgenders. Another chapter in the bill is

Identity Crisis and Rights in Trouble: Transgenders in Islamic Republic of Pakistan

about their different rights; right of education, right of inheritance, right to vote and employment, right to health and access of public offices. A whole dedicated chapter is about the identity of transgenders because they are unable to opt any alternative in binary gender option. They are to be given equal rights as stated in the constitution of Pakistan. (Ingber, 2018)

Lack of education is perceived to be one of the leading reasons in Inhibition of transgenders in mainstream of Pakistani society. When their parents abandon them out of social reluctance, they are forced to live with their gurus who adopt them. They learn all other skills important for their defined jobs except education. Therefore, government of Pakistan, in its parliamentarian act, grants right of education to all the transgenders in a community. And it also prohibits any kind of discrimination against getting admission in any institution of Pakistan. Transgenders have also been granted rights of recreation and participation in sports.

In order to address the health concerns of transgenders, the constitution of Pakistan denies any kind of discrimination against provision of proper health facilities to transgender in Pakistan. In the matter of fact, the government of Pakistan has directed the doctors and nurses to do research and pay special attention towards the issues of transgenders and then treat them without any discrimination. (Hussain, 2016) They should be provided with the best health care facilities in hospitals and there should be safe and comfortable environment for them. They will have easy access towards hospitals for their treatment.

Transgenders are considered as outcast and are not allowed in other fields of employment in Pakistan therefore, they are forced to opt abominated field of prostitution for their earning purposes. they are not readily accepted in other fields of employment as they are abandoned by their families and lack any kind of documentation. These conditions become hostile for them to survive in such society in a respectable manner. (Abdullah, 2012) In order to address these grievances of transgenders, constitution of Pakistan have granted rights of employment to transgenders. There is also an act to avoid discrimination against inclusion of transgenders in mainstream of employment. They have been given rights to opt any field they want and they will be provided opportunities for promotion and transfer and other issues.

Transgenders have also been given the right to inheritance according to the constitutional petition NO. 43 OF 2009. (Sajjad, 2019) They are entitled to have rights to inherit property in their ancestral property and they will no longer live the life of misery and helplessness. From all these rights given to the transgenders in order to address their grievances shows that government of Pakistan is concerned about the rights of minorities in the state. Even for the enforcement of these rights Pakistan established institutions like federal ombudsman, national commission on status of women, national commission for protection of human rights. These institutions took measures for the safeguard and enforcement of these rights. However there always remain a lacuna in guaranteeing rights and then taking actions for the enforcement of these rights. Because the institutions in Pakistan are supposedly unable to work transparently. There is a huge gap in conferring rights and then taking actions for their enforcement. As far as legal actions are concerned, supreme court have directed the government to make legal bodies for dispensation of rights to transgenders. (Knight)

However, it can be seen that there is huge gap between theory and practice in giving rights to transgenders. The court has taken legal actions theoretically and have directed the government of Pakistan to establish institutions for the safeguard of the rights given to the transgenders. the ineffectiveness of the office of federal ombudsman, National Commission of Human Rights and National Commission of Rights of Women have not devised any means for the enforcement of the rights. These institutions have remained unable to guarantee these rights to transgenders as explicable through the fact that many transgenders do not even know the whereabouts of these institutions. They hardly have any familiarity with these institutions as a result of community level survey in Lahore. (Ahsen, 2019) Due to lack of education, they do not know that they have been given basic rights of education, employment, and inheritance.

Though government of Pakistan has given rights to transgenders in order to address their concerns and grievances, but there remains a gap between implementing the orders of government. Deep down in society, transgenders still face discriminatory behaviours. Despite of establishing separate educational institutions for transgenders, they continue to face harassment and victimization. There remain many hurdles for them in the mainstream society. Apart from the fact that Prime Minister has launched Ehsas Programme for the health purposes of transgenders, they still are unable to enjoy equal health facilities in society. (Knight)Public is unable to treat them on equal levels. It still uses derogatory words for transgenders in public.

On one hand transgenders have been given rights legally by the supreme court and government institutions have been directed and ordered for the enforcement these laws, and on the other they are abused sexually for refusing submission to sexual relations, they are raped, they are murdered, and harassed and treated discriminately. In 2019, 18-year-old transgender was raped by nine men and then murdered. In the same year, Muni, a transgender who was a dancer was fatally shot at a function because she was unable to give change of thousand rupees to the owner. In January 2019, Shama, a transgender was sexually assaulted and murdered. Their dead bodies were refused to enter into morgue in fear of get polluted. According to a local activist group, in 2016 a transgender was fatally shot six times in a hospital over the hustle created by hospital staff that in which ward; in men's or women should that transgender be admitted. (Pakistan, 2017)

In census some women transgender protested that they have been registered as men. In an interview with the transgenders begging on the roads of Lahore, Punjab, Pakistan. They told that if they send their children to schools, they get humiliated and bullied at schools. Another told that they are happy with their job because deep down they have to face many challenges if they try to achieve the rights they have been given by the government of Pakistan. Transgenders told that many people came to them and promised them reforms about their conditions, but they never return to change their condition or to help them in their miseries. Transgender seemed afraid in giving interviews because they thought they would be harmed afterwards because of this interview. They were not ready to expose the difficulties they face in their daily lives and told that they were happy with their work because their ancestors used to work the same and they have this job since ages, and they do not want to change their conditions. But when they were consoled and told that they will not be harmed, they told a few words about their conditions.

Identity Crisis and Rights in Trouble: Transgenders in Islamic Republic of Pakistan

In an interview conducted by a student of university of the Punjab, Billi, a transgender told that we are ready to send our children to schools if you take responsibility of barring the people from bullying us and harassing us. We are ready to take part in respectable employment if you assure us of safe and respectable environment. Their concerns were not useless because it was proved in an institution. On visiting the institution of Gender Guardian Organization in Garden town Lahore, a lady sitting in the office mocked the transgenders and trivialized the matter of meeting them and interviewing them. Her behaviour was quite insulting and the whole administration of that organization was hesitant in letting the transgenders meet and to give interview. The man who was in-charge of the classes of transgenders in the organization was mocking them and did not allow the interviewee to meet transgenders and ask about their satisfaction.

In another interview, out of the organization these transgenders told the student that they were bullied by the administration during their classes and were facing quite dismal situation at the institution. They were not satisfied; they told that although the government has taken initiative in guaranteeing rights to them and to provide them the basic facilities but there is a sheer need of changing the behaviour of people towards them. Until the mentality of people towards will not change they cannot have respectable lives. For that matter, the whole structural mentality needs to be changed and receptive towards transgenders. They need to get assimilated by the structure and get normalized. In fear of the humility and a tiring process of facing the harassment by the people and getting bullied by them, most of the transgender community prefer to stick to their old profession of begging and sex work.

In a rural area of Punjab, another group of transgenders were interviewed, they told that they were living in very dismal conditions and they earn their living through begging. One of them told that he earns thorough a 'tandur' where he works for daily wages. The group of transgenders told that they do not know if any rights have been given to them and begging is their fate, and they have to earn their living in this way. They do not have any other option of earning a livelihood except indulging in begging and sex work. Some of them are also indulged in drug selling. There is always a leader among them called 'guru' whom all the community follow for their chores. The 'guru' directs them for their job and they handover all the money they earn to the 'guru' at the end of the day.

Many crimes are also associated with transgenders such as selling sex, drugs and begging. Many transgenders are also perpetrators of suicide as result of physical victimization. according to a reported study 76 percent transgenders in Pakistan are involved in begging and 39 percent of them are involved in sex selling. physical victimization, discrimination in institutions, and forced sex at very young age incites transgenders to commit crimes and to adopt risky behaviours. (Mohyuddin, 2019) They face exclusion in society from very young age till old age. Their families do not feel comfortable in keeping their own transgender child. Transgenders are excluded from the society as result of so-called social norms which prohibits them in getting accomplice with normalcy. Due to lack of education, social exclusion, and lack of opportunities, they are compelled by the society to adopt no other means than begging and doing sex work which makes them a criminal tribe. (Abdullah, 2012)

For a healthy personality development, a person needs support of a balanced family. Unfortunately, transgenders are observed to be devoid of this blessing. They are abandoned by their families since early childhood. They face housing instability, and discrimination at health institutions. They fear to visit doctors because they would not be taken as serious and they would be mocked and laughed at. A taboo of selling cheap sex get attached with them. They face discrimination everywhere in society. They remain unable to avail the opportunity of psychotherapy in case of mental disturbance and even cannot enjoy normal health facilities. due to exclusion from the mainstream of society their unemployment rate is 94.4 percent All these discriminatory behaviours force them to face sheer instability and then commit crimes which are considered taboo in our society. They are compelled to adopt such professions only in order to make both ends meet. (Zafar, 2019)

Religion treats everyone on equal basis. All humans, whether transgender or normal males and females, all are equal before them. And the parents who abandon their children and do not look after them are sinners according to religion. However, a blatant discriminatory act was committed by Saudi Government in 2016; they ban the visa to be given to transgenders for religious pilgrimage to holy Makkah. it was a major setback for transgender community. The government of Saudi Arabia refused more discussion on this topic leading to more confusion. (Siddique, 2017) Later on, Javed Ahmed Ghamidi; a religious scholar told to a Pakistani newspaper that there is no right to any government to refuse transgenders from religious activities because Holy Kaba is the home of Allah and all human beings are equal before Him. And being transgender by birth is not a sin. It is only a hormonal disorder and a medical condition, and it should not be made a taboo or stigma. As nobody is responsible for it, therefore, it should not be made complicated. (Rafay, 2016)

Transgenders face world-wide dismal health conditions. There are around 25 million transgenders globally and 60 percent of them face depression due to stigma, taboo, discrimination and physical and mental abuse. (Hussain, 2016) They are 60 times more likely to contract HIV than normal people. Due to the discrimination and maltreatment, they face, they are drawn towards unsafe sex and substance abuse. It is a responsibility of doctors and physicians on world-wide level to treat the transgenders beyond any discrimination. They should be given training during their profession as to how to treat transgenders on equal levels of other gender. world medical association adopted blueprint for the first time; how to treat transgenders as they like themselves and are comfortable. (Hussain, 2016)

In Indonesia, shut down the beauty salons of transgenders and arrested 12 persons who were perceived to be transgenders. In Malaysia, a minister became victim of a vicious campaign and he was forced to resign, and all the aid given to him was cut off just because he led a campaign for transgenders. Malta, Ireland, Norway, Argentina, and Denmark are among those progressive countries recognising the rights of transgenders while eight states of Europe remained failed to offer legal recognition to transgenders. New Zealand, Australia, Nepal, Pakistan, and India are among those countries who have started recognising the rights of transgenders. (Mohyuddin, 2019)

Global trends suggest that world is becoming more tolerant of transgenders and most people want them to be treated with due respect and honour in all spheres of

life. According to the Ipsos survey conducted in 2018 on the topic of transgender people “a strong majority of people around the world would like their country to do more to protect and support transgender people.” (James, 2018)

This change in people’s perception regarding transgender community is indeed a very promising one. Earlier, transgenders had to go through a very arduous journey in adjusting themselves in their respective societies. But now world has reconciled with their prejudices towards transgenders. Fortunately, now the West sees non-traditional sexes with a neutral lens. Although, there are still issues, yet as compared to developing nations of the Asia and Africa a considerable positive change has been observed. For instance, “a majority of people in countries surveyed by Ipsos believe that transgender people are a natural occurrence.” (James, 2018) Thus, with this altered perception of the people the transgender community has witnessed a remarkable change in the status in the West.

As far as the life of transgenders in Pakistan is concerned it has been miserable. They have been the victims of social, political, economic, cultural, and religious marginalisation. They have been struggling to merely survive. Although Pakistan has tried to ensure the protection of its transgender community through legislation of 2018— the Transgender Persons (protection of rights) Act— it has completely failed in implementing it in its true spirit. (Khan, 2019) This lack of implementation of so-called protection act is one of the reasons transgender persons of Pakistan are under constant misery. They have been the victims of physical, emotional, and psychological violence across the country. Families disown them; public harass them, and state fails to protect them. Every now and then one learns about the brutal murder of the transgender persons. Some are killed at private dance parties; some are beaten to death by intolerant fanatics at public place and a few even die in their house by their own families. This is the state of transgenders in the land of the pure.

On sociocultural front, people of Pakistan still refuse to accept transgender persons as equal members of society. The very birth of transgenders is condemned. It is believed that transgender is a source of shame for family. Thus, transgender is disowned at the time of their births by their parents and they are handed over to the transgender persons. Public hasn’t yet embraced transgenders as their partners in political sphere as well. Like women special quotas in national and provincial assemblies, transgenders have not been given such special treatment to ensure their representation. They are still voiceless. (Ahsen, 2019)

As far as their share in economic sphere is concerned, they belong to the unprivileged, deprived, and vulnerable group. They struggle for meeting their ends through begging, dancing, and indulging in prostitution. Owing to their disadvantaged status they are not seen as normal human beings rather people stigmatise them often and view them with different lenses as per their orientations. (Pakistan, 2017) Some see them as deprived ones, few find them cursed ones and other consider them a burden on society. For them managing to merely survive is a challenge. They have never been allowed to be part of mainstream economic activities.

Gender based violence against transgenders has been one the major issues witnessed so far in Pakistan. From physical assault to psychological abuse transgenders have been victims of both direct and indirect violence. According to the Dawn report “Shama— 18-year-old transgender women— was abducted and brutally raped by

nine men in Peshawar.” While another transgender woman Shiza, who worked as a dancer, was fatally shot for not fulfilling the required moves of entertainment to the owner of function” Moreover, according to BBC “Maya, a transgender woman from a conservative family of Nowshera, was found dead after she was coercively brought back to family after her escape. She still awaits justice.” (Khan, 2019)The lives of transgenders in Pakistan are at the mercy of the conservative minds. They decide if one deserves to live or not. Although, protection act for the transgenders’ safety and security has been passed by National Assembly, still there is hardly any implementational plans drafted by the government. Police and justice system are reactionary. It only wakes up when someone is dead or destroyed. It lacks proactive approach. There must be a mechanism that should deter ill minds from harming vulnerable persons i.e., transgenders. (Zafar, 2019)

How does it feel to be a transgender in Pakistan is known to only transgenders? They often raise this question whenever asked about their miseries. All fail to respond. One of the transgenders dared to reveal its feelings for being a transgender in Pakistan. Shahzadi, a transgender woman from Lahore, opened up while talking to reporter of BBC news channel. (Khan, 2019) She told that it would have been better for her to be an animal than being a transgender person in a society such as Pakistan. She added that our community is brutally beaten, killed, raped, humiliated, and disgraced not for our mistakes or crimes rather for our natural physical anatomy—which beyond our control.

The status of transgender persons in Pakistan needs to be improved to bring justice in society Pakistan ought to stop focusing only on legislation, rather she must make sure the executive branch implements the laws in letter and spirit. We have laws but we lack their implementation. Therefore, we need to reconsider our options and approach towards dealing such serious issues. Transgender community has suffered since long, now it is time we worked to end their sufferings. One possible way to save them from injustice is to mainstream them in our all-formal socio-political structure through special measures i.e., special quotas in assemblies, education institutions, jobs etc. Secondly, our criminal justice system needs ensure transgender community gets its due share in justice. Thirdly, law and enforcement institutions to take special actions to safeguard the vulnerable sections of society. Security must be insured for transgenders across the country. Lastly, we have to change public perceptions to accommodate transgender in our society on equality. We need to correct our course and embrace transgender community as our equal partner and shareholder in our society.

Discussion

From the above literature review and findings, it is clear that, though the government of Pakistan have passed bills and made laws in order to protect the rights of transgenders, but it has failed in implementing those laws in practice as there is a huge gap between theory and practice at governmental level. It is observed that, a small number of transgenders have gotten access towards education and very few transgenders have started coming into mainstream employment as shown by the fact of Marvia Malik becoming first transgender news anchor. Another transgender become model and one of them now do talk show on YouTube. These are the examples of very few transgenders who have experienced some good air in their lives and who are becoming role models for rest of their community. A large number

Identity Crisis and Rights in Trouble: Transgenders in Islamic Republic of Pakistan

of transgenders still clinging to their old profession of begging on roads waiting for the change of behaviours of people towards them. As a matter of fact, mentality of public needs to be changed in order to provide respectable lifestyle to transgenders.

Despite the provision of laws by the supreme court of Pakistan, transgender community continue to suffer discrimination at each and every level. There is a dire need of sensitization of all the departments of health, education and land and revenue. These departments should be proactive and assume the roles that are assigned to them in the Act of 2018 relating to the respective rights of transgenders. These departments should reach to all the transgender community in a proactive manner in order to provide them all the facilities which have been persistently neglected due to the inefficiency of governmental institutions. The officials who have to enforce transgenders rights, should be given special and sensitive training relating to each and every aspect of transgenders, so that they must have proper knowledge while dispensation of rights of transgenders. This is a fact that a decade of marginalization and alienation to this community has given rise to many grievances that will take time to be addressed properly. But in the meantime, government of Pakistan should take steps and launch social schemes specially for transgenders and officials should reach to them proactively in order to alleviate their sorrows and grievances. Public at the general level should be schooled to treat transgenders equally and without any discrimination. They should not be laughed and mocked at. Every department, whether it is education, health, land and revenue or any other department, should be given specific trainings to deal with transgenders in a way that they do not feel marginalized and alienated. They should be proactively made a part of society and they should be considered equal to all other genders. Their being equal and participation in all the fields of society should be normalized.

With strict accountability, enforcement of laws and allocation of resources Pakistan can become a leading country and path breaker in the grim global landscape by giving rights the most vulnerable community in society. And transgenders who are shunned, marginalized, victimized, harassed, killed, and abused can be valued and have respect in society. Transgenders can have more acceptance in society only if after making the laws, there is strict implementation of these laws in a proactive manner by the governmental institutions.

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