

TRANSGENDER PERSONS (PROTECTION OF RIGHTS) ACT, 2018: PERCEPTIONS OF TRANSGENDER PERSONS ABOUT CHANGE IN STATUSSyeda Soma Javed¹, Zoya Arslan², Dr. Ambreen Salahuddin*³**Original Article**

1. BS Gender Studies, Department of Gender Studies, University of the Punjab, Lahore
2. BS Gender Studies, Department of Gender Studies, University of the Punjab, Lahore
3. Assistant Professor, Department of Gender Studies, University of the Punjab, Lahore
Corresponding author Email: ambreen.dgs@pu.edu.pk
ORCID: 0000-0001-5717-5969

Abstract

Transgender community is one of the most marginalized communities in Pakistan. This is also true as regards to the world because they do not fit into the universal and socially accepted categories of gender i.e., the gender binary of being “male” or “female”. Our study primarily focuses on the perceptions of transgender about change in their status after passing and implementation of ‘Transgender Persons (Protection of Rights) Act, 2018’. The study shows that differential treatment is meted out to transgender community ranging from labeling, social exclusion and harassment etc., faced by them in public and private spheres. This study discusses their gender transition, employment experience, familial and social support, monthly expenses and their monthly income, reason of unemployment, hurdles in daily life, and changes after implementation of The Transgender Persons Act 2018 scenario after getting rights in transgender community. Semi-structured in-depth interviews were conducted with six transgender persons. One of the major key findings of this study was the prevalence of mistreatment by society and lack of opportunities in all sectors i.e., education, employment, healthcare, and legal justice. Another key finding of this study was the negative and long-lasting effect that family banishment and mistreatment and from general public had on all the participants.

Keywords: Transgender, Marginalization, Social Acceptance, Structural Injustice, Patriarchy, Transgender Persons Act 2018

Introduction

This research is an analysis of the perceptions of transgender persons about change in status after the new law passed to protect the rights of transgender persons. The ‘Transgender Person (Protection of Rights) Act, 2018’ is the law which was passed by the parliament of Pakistan in 2018 and it was passed to provide equality to the transgender people and to protect the rights of transgender persons legally. Transgender persons have different gender identity than the known gender binary of male and female, and that identity is assigned at the time of birth to them. Transgender may be known as heterosexual, homosexual, bisexual, and asexual. In Indian sub-continent, transgender persons are referred to as *Khawaja Sara*, *Khusra*, *Chakka* and *Hijra* (Khandoker, 2022; Datta & Roy, 2014).

According to the “Global Gender Gap Report 2021” published by the World Economic Forum (WEF), Pakistan is ranked 153rd out of 156 countries on the gender parity index. Pakistan has shown grim performance when it comes to gender parity. Transgender are deprived in our society

that they don't have any right of education. Pakistan does not have schools for transgender and our society does not accept them as normal human that they will get their education in normal schools. In the 'Transgender Persons (Protection of Rights) Act, 2018', transgender community is given the right of vote, right of inheritance, right of education and right of employment and health. Current research shows that deep down in society, transgender still face discriminatory behaviors (Alam, 2021).

The objectives of the research were to explore changing status of transgender after implementation of the Act, to highlight the role of transgender persons in bringing about the change in their status after the Act was passed, and to understand how transgender persons can get equality and equity. Through this research, the harsh realities of transgender community's life and the problems that transgender persons face every day, will be learnt in detail. This study provides the community more knowledge of what transgender go through and what are the hurdles in their daily life. This study provides an insight into their lived experiences.

Currently the transgender people face inhuman behaviour, segregation, and have been physically attack since they are left without any resources, are excluded from medical care, instruction, business and work opportunities. Ill-treatment with transgender persons has been taken as extremely normal in Pakistan. However, presently transgender persons' privileges have been safeguarded by the law of Pakistan. This regulation disallows exclusion and oppression against trans persons in the country. This act permits transgender people to lawfully have similar privileges as cisgender individuals. It must also be kept in mind that the only work options that transgender persons are left with are sex work, begging and dance. People do not hire transgender persons to work in their homes for house chores, people do not give them any jobs.

Review of Literature

Transgender people have been facing harsh situations since ages and since establishment of Pakistan, there have not been any special legal protection for transgender persons. They have been raped, murdered, sexually abused, physically victimized, and discriminated in all aspects of life (Alam, 2021; Fatima and Jami, 2023). The previous research shows that in the earlier Mughal time, transgender persons were given the respect which they deserve in the community but now in the present time, they are facing a lot of problems like discrimination and harassment etc. (Jabeen, 2021). Transgender persons have been forced to earn their livelihood as sex workers, beggars on roads and entertainers or dancers in festivals, which is not considered a respectable way of earning, especially in context of Pakistani society (Khan, 2021). Transgender persons have not been granted a respectable place in Pakistani society since its establishment (Khan, 2021). Transgender are considered as part of society and are not included in other fields of employment in Pakistan as they are rejected by their families and lack any kind of documentation (Abdullah, 2012). Despite establishing separate educational institutions for transgender, which are very few, they continue to face harassment and victimization. They face discrimination at health institutions. They are physically assaulted and psychologically abused; thus, are victims of both direct and indirect violence (Abdullah, 2012).

The studies show that there are many countries, including Pakistan, and India that have started recognizing the rights of transgender (Mohyuddin, 2019). Global trends suggest that world is becoming more acceptable towards transgender people and most people want them to be treated with due respect and honor in all spheres of life (James, 2018). It can be seen that despite approval of policies and passing of laws to facilitate the inclusion of transgender people in

society, there still are problems in the implementation of the policy, which is why despite the efforts taken by the Supreme Court of Pakistan in 2009 and 2010, there are gaps in implementation and the *hijra* community remained invisible in terms of rights (Hali, 2020). With the promulgation of Transgender Act, it is hoped that it will pave new ways for the transgender individuals to continue their activism and struggle (Khan, 2009).

Rajkumar (2016) stated that education is the basic element for the development of any democratic country (Lipset, 1959). Without educating the citizens, countries can never make progress. And there has been no focus on the education of this marginalized community in Pakistan. Also, they encounter social discrimination, exploitation, rejection and violence on daily basis (Hassnain, Ali and Zahra, 2023). It is important to highlight that their struggle is testimony to their strength as a community, they also have strong difference and conflicts among them (Khan, 2009). However, that there is still quite a bit of work to be done before transgender individuals in Pakistan can truly be described as free, equal, or respected (Redding, 2020).

Methodology

This research is qualitative in nature. It uses phenomenological research design to explore lived experiences of transgender persons. The theoretical lens used for this study is of the theory of structural injustice and patriarchal theory. The concern is to explore how patriarchy is the reason behind structural injustice that is done to all marginalized communities, including transgender community (Napikoski, 2020). It is seen that structure of society is created in such manner that certain things give benefit to some people and are harmful for the other. Patriarchy has power over structures, institutional and social actions. Patriarchal society does injustice with all the genders. Structural injustice supports patriarchy because patriarchy asserts its power to create structure and institutions (Napikoski, 2020).

The population for the study is transgender persons living in Pakistan. Participant selection is done using the snowball method. Six transgender persons from Fountain House, Lahore were selected. In-depth semi-structured interviews were conducted with participants. Thematic analysis technique is used for analyzing the context of perceptions of transgender about change in status after the transgender persons (protection of rights) act, 2018. The interview guide was developed thematically and answers were recorded on a tape recorder, with consent of participants. Data analysis began after the completion of the first interview and simultaneously continued with the data collection process.

Findings and discussion

The findings of this study are based on primary data, collected through semi-structured in-depth interviews conducted with participants of this study. All participants of the study admitted that there is no notable change after the implementation of The Transgender Persons (Protection of Rights) Act, 2018. Through this research, it was revealed that almost all of the participants were unaware of the 'Transgender Persons (Protection of Rights) Act, 2018'. Most of the transgender persons who participated in this study were not highly educated. Most of them had no inheritance, and the ones that had inheritance gave it to their sisters. Most of the participants of the study consider themselves as male. Yet some prefer to be addressed as female.

Table 1

Demographic Profile of the Participants

Participants	Age	Education	Occupation	Gender	Preferred Pronoun	Employment Experience (in years)
Participant 1	65	B.A.	Teacher	Female	She/Her	25
Participant 2	60	Grade 8	Tailor	Male	She/Her	45
Participant 3	40	Grade 3	Beggar	Male	He/Him	No formal employment. Begging since childhood.
Participant 4	50	No Education	Dancer, Beggar	Transgender	Transgender	No formal employment. Dancing since her childhood.
Participant 5	45	Grade1	Fountain House Canteen Keeper	Male	She/Her	5
Participant 6	35	Matric	Cook	Male	She/Her	8

Identity Issues

Transgender persons Act 2018 gave definition of transgender and a right to them to adopt a particular gender identity, as per their own perception. It is however not accepted by society. People are either unaware of the law, or do not accept it. Mostly transgender are pressurized to change their identity because of society pressure.

Gender Transition

It can be observed that most participants considered themselves as male gender. They have a get up of males, because this is acceptable by society. There are lesser chances of harassment because of male identity. Transgender community believes it is safer for them to hide their identity and act as a man because of social acceptance.

Perception about Own Self

Transgender persons also do not consider themselves as a normal human being because of their identity. So, they prefer to live in those areas which are not highly populated or they live in places where only transgender community lives. Participant One and Participant Two believe that they are old and they are going to die soon. Both stated that Transgender Persons Act 2018 did not and will not make any difference in their lives.

Gender on Identity Card

All the participants shared that nobody had identity of their own choice; they were living someone else's identity. Participant Two shared that identity card was issued to him in 1977. The card shows male identity. He always felt himself as a female from inside but his parents did not allow him to act as a woman. Only Participant Four had the identity card as a transgender. Her identity

card was issued to her after Act of 2018. She added that she could have identity card before Act of 2018 but she did not want to have fake identity.

Issuance of Identity Card

Mostly transgender persons were old, and they already had their identity card before Act of 2018. But Participant Three and Participant Four got their identity cards after Act of 2018. Participant Three shared that she got her identity card after Act of 2018. When she went to Nadra office for registration of identity card, an employee helped her to get her identity card registered. She also shared that there can be a transgender person employed in each Nadra office so that the transgender community can feel at home and can comfortably talk to the concerned person to get their identity registered. It is no doubt an issue for the transgender people to go to public offices and find that their community does not have any representation anywhere.

Benefits of Identity Card

All the participants shared that identity card helped them to be a normal citizen of Pakistan. It can make it easier for them to take loan from banks and rent a property. Participant One shared that identity card can help them to have a grave in graveyard with their own identity. This was a very painful revelation that even acquiring a grave posed as a difficult situation for the transgender persons. For acquiring a grave in graveyard, it is necessary to have identity card.

Achievements after Getting Rights

Transgender community did not get share of their inheritance but they after the Act, they were in a position to claim that they have right of property from their parents' inheritance. After Act 2018 transgender community can register FIR for any Harassment and they do not have to remain silent like past. Participant Two shared that society is changing because of Transgender persons Act 2018. People are humbler than the past and they are trying to accept us.

Family and Social Issues

The discrimination and issues of transgender persons start from home. Parents do not want to accept transgender children as their own child. If they do, they do not treat them as normal person. Reason is social stigma attached with being a transgender and trans children become a symbol of shame for family. Transgender community is marginalized and that is why they have little control over their lives as compared to other genders, because being abandoned by family has a huge influence on their live.

Family Issues and Familial Acceptance

All participants shared that they were supported by their parents to some extent till they were alive. Their parents never stopped them for being themselves. But their siblings were not supportive at all and they never considered them as their family members.

Participant Six stated, "Once I told my parents that I feel like a woman from inside and want to spend my life as a woman. They became frustrated and said it is unnatural and against the teachings of Islam". He also shared, "When I insisted that, that is who I am and that is how I feel from inside, they stopped talking to me and they refused to acknowledge me as if I did not exist in the house". He added, "For my family, I am living as a man and my real identity is hidden from everyone."

Social Issues

Transgender persons face discrimination in access to public places like parks, shops, malls, restaurants and any social gatherings.

Participant Four stated that it is not easy to live as a transgender person in this society as people do not want to support them. Mostly people believe that transgender people indulge in wrong and unlawful deeds, for instance sex work, prostitution etc., but in reality, Participant Four shared, they were trying to make *halal* (lawful) money for a living. She added, "I went to a function for dance and a police man asked me for sexual favor. I said no immediately, and told him that I am not a sex worker. After that function on the same place that police officer and his four fellows raped me. Nobody came to help me. I just wanted to die on that spot." She also said that "Allah made us the way we are and we did not have any control over our gender identity." It was indeed a very difficult thing for her to admit and she was all tears. This brings us to the dilemma of patriarchal structural injustice that is happening to all people who are discriminated against because of patriarchy and since all institutions of society are patriarchal, structural injustice is happening to powerless segments of society.

Social acceptance of Transgender Persons

Participants shared that when they start school, their classmates bully them and mock them with different names. When they try to seek employment, nobody gives them job. When they need social services such as health and housing, people do not trust them. It gets worse when they do not have access to identity documents which are required to participate in society. Additionally, because of their different appearance, they are victim of discrimination, violence, or they face a constant fear of facing it.

Hurdles in Daily Life Routine

Most of the participants stated that they hide their identity from society. They use a masculine getup to earn living. They added that the society's reaction is mixed but none of those reactions was truly positive or that of total acceptance. The participants shared that they believe that it is difficult to live like someone else and feel completely opposite from inside. They said that it feels like they were living someone else's life. Participant Five shared that "I am not educated enough to speak and understand English. Whenever someone says any English word to me, I feel insecure suddenly. Whenever I have to sell anything in my shop, I cannot read the name of the product and I ask my customers what is written there and what is exactly that you want".

Economic Condition

The employment and economic opportunities for the transgender community are limited because of low literacy rate and social exclusion. There are other factors as well which trigger their economic deprivations and these include expulsion from home, non-inclusive behaviour of family and society, discrimination at workplace, lack of knowledge and education, lack of opportunities and lack of confidence for gaining opportunities.

Behavior Towards Transgender People at Workplace

All participants shared that they faced challenges at their workplace. They were asked during in-depth interviews about how they found work, and how difficult it was as a transgender to do any work for living. None of the participants had a decent or stable employment position and all of them were living with much difficulty. Participant Two shared that his father was a tailor. He started working with his father. He had a masculine expression but still people used to make fun of him and used to clap in front of him because clapping in a particular manner is symbol of transgender community.

Monthly Expenses

Transgender participants shared that it was difficult for them to make both ends meet as their monthly income was not enough for their monthly expenses. Transgender people shared that even if a particular job did not require education, people did not hire them because of social stigma that came with having a transgender person as an employee.

Participant Four shared, "I am a beggar. Whenever I go in streets for begging, people make fun of me, and mostly people say that you are healthy and fit so why you are begging. Go and do some work. And I always ask them, 'will you give me work?' Then they do not answer anything."

Participant Two shared that his monthly income is twelve thousand rupees. Out of which, ten thousand is spent on his house rent and bills. He shared that his monthly income is not enough for his expenses. He said, "my family does not support me as they think that I don't have any expenses because I am alone and I do not have any family. But I am happy at least I am earning something."

Reason of Unemployment in Transgender Community

All Participants added that the main reason of unemployment is education as most jobs require education and they are not educated enough for those jobs. Social stigma is also a big reason. Most of the participants of this study were old. They told us that they did not get any opportunities to study and the those who had the access, had to drop out of school after leaving their families and hence they were unable to apply for any decent jobs after they grew up. The participants were seen to have fear or insecurity in regard to joining educational institutes because of the traumatic experiences they had earlier in their lives. Some of them said that they used to get bullied by classmates.

Participant One stated that reason of unemployment is the taboo attached with transgender community as general perception is that they are sex workers and prostitutes. He added, "if I will sit with someone and consider that person as my son or daughter, people still think I will harm them and I will do inappropriate things with them".

Transgender Community

Transgender community face discrimination and harassment in all respects in contemporary Pakistan and they are being treated unfairly. There is verbal abuse, physical and sexual abuse, denial of share in their inheritance and property, inaccessibility to admissions in educational institutions, and victimization in multiples settings like family, educational institutions, workplace, health care settings, and public spaces. Marginalization of Transgender people often starts with the family into which they were born. This results in deprivation of education and self-confidence.

Peer Support

The participants were seen to have a fear and insecurity as regards to making friends. Participant Four shared that she had a friend a few years back and they worked together. She invested all her savings for the shop and her friends did not have money to invest anything. She worked with her friend on that shop. This experience was successful and they were earning good money after one or two years. They expanded that shop. From that shop money, his friend bought a bike and later on he bought a car. His friend also made his own house at that place of shop. But when he got married, he registered that shop in his name. She shared that, "he excluded me from everything and I came back from his village. I never got chance of making friends as people do not trust her."

Treatment that Transgender Community Needs

All the participants agreed that family can help the transgender people to regain their self-confidence. Government should give and share special quotas in job in different field of life so that transgender people can enjoy a normal lifestyle. Government should create awareness among the people through seminars and media so that people can create build an acceptable behavior towards the transgender.

Transgender Persons Act 2018

Transgender Persons (Protection of Rights) Act, 2018, gave rights to transgender community including the right to education, right to vote, right of inheritance, prohibition against harassment

with transgender, right of employment, right of hold public office, right to health, right of assembly, right of access to public places and right of property.

Knowledge of Transgender Persons Act 2018

Mostly participants shared that they do not have any knowledge of Transgender Persons Act 2018. There is lack of awareness about the Act, like many any other legislations in the country. Transgender participants did not know about new legislation for them. Participants shared that they were harassed many times but they did not try to take help from law because they thought that nobody would help them. We found that transgender people were treated abusively by law enforcement. Some of them reported that they never went to police stations to file any sort of complaint even after being sexually violated.

Participant Four shared that she does not have any knowledge of Transgender Persons Act 2018. She was being harassed in private functions but she never tried to register FIR. She believes that nobody will take her seriously. When we shared with her that there is a law for harassment with transgender that will punish culprits, she was surprised and she said that the next time if she will be harassed, she will go to the police station.

Implementation of Transgender Persons Act 2018

All the participants agreed that even if there is the Act, there is no implementation. This Act gives right to transgender persons to have identity card according to their self-proclaimed gender identity. The Act states; "A transgender person shall have a right to be recognized as per his or her self-perceived gender identity, as such, in accordance with the provisions of this Act." The Act also states that transgender person "shall have a right to get himself or herself registered as per self-perceived gender identity with all government departments including, but not limited to NADRA." There is also the provision in the Act to give the transgender persons, who already have the identity cards, to change their names and genders as per this new law.

Changes after Transgender Persons Act 2018

All the participants shared that there is no such change after Transgender Persons Act 2018. There is no such implementation of law. In Act 2018, there is right of education, but transgender participants thought as people do not consider them as human beings, so why would someone spend their money on their education. Also, it is not an option for them to spend on their education themselves as they are not economically sound.

Participant Four shared that she used to go to *masjid* [mosque] to offer *namaz* [prayer], but *Molvi sahib* of that Masjid did not want her to visit that mosque. he was told that this place is not for you and you should go somewhere else. *Molvi sahib* also frequently made fun of her. Whenever she went to the mosque to pray, she always stood in the last row because people did not like her visit there. She added, "Allah do not stop anyone to visit His place and it does not matter for the Almighty if a person is transgender. Nobody can stop me to visit His place."

Conclusion

It can be concluded that the after Act of 2018, transgender community is still marginalized in every sphere of life, there is no governmental and social acceptance for them. Transgenders are facing violence because of their identity and their rights are neglected. Transgender Person's Act 2018 provide equal access to education, health, public places, and employment opportunities and give them knowledge about their rights. But transgender people are uneducated, they are unemployed, they cannot own any property and they do not even have a place to live like a normal human being. The basic rights of transgender people, like all humans, is safety and security in order to ensure that they are being treated equally as an equal human being. Transgender people are not

accepted by society in any case so they change their gender on their CNICs to male because men can have all rights in this patriarchal world. The government must take steps to ensure full and active participation of transgender persons in society and ensure their inclusion in the society as normal human beings. The transgender community in Pakistan is a vulnerable minority that faces social exclusion, sexual harassment, poverty, unemployment as well as lack of education or no access to education. They also do not get inheritance from the family if the parents are dead. In addition to this all, participants demanded more funds for their community, more employment opportunities, and more strict laws for their protection, more education opportunities, and grooming schools to achieve the dignity and majorly a social acceptance.

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