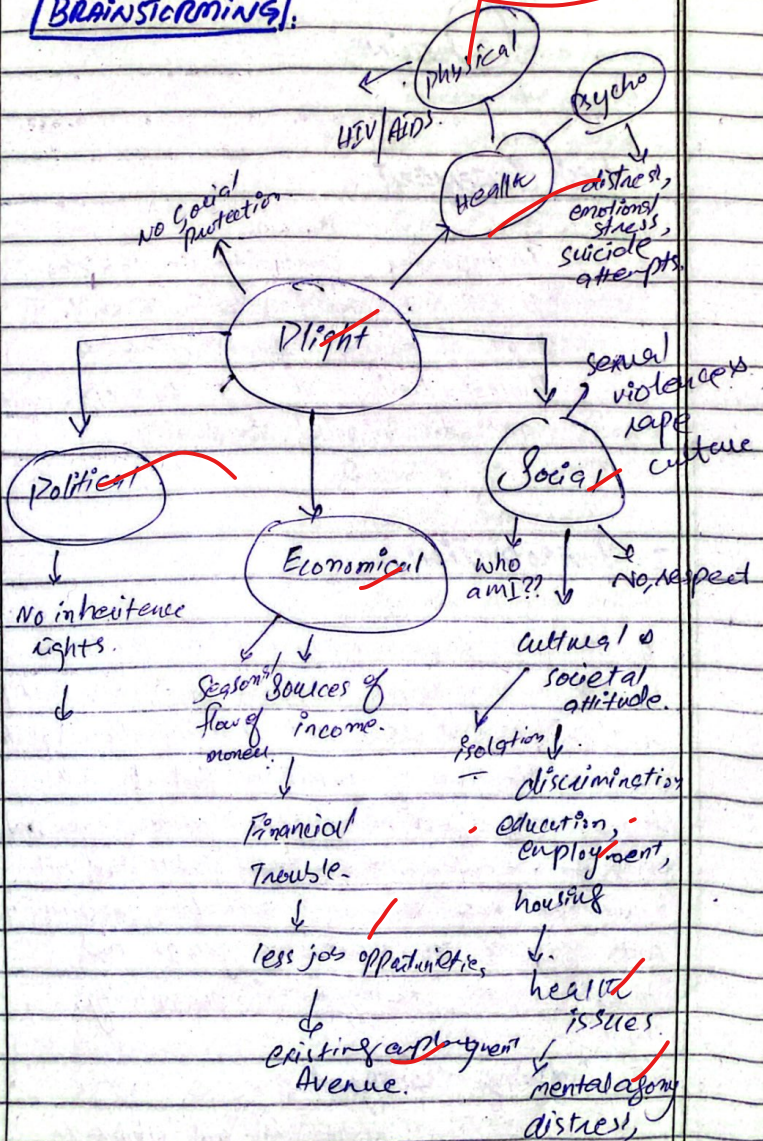


Excellent ESSAY

33209

# THE PLIGHT OF TRANSGENDER IN PAKISTAN

## BRAINSTORMING:



# THE RIGHT OF TRANSGENDER IN PAKISTAN

## OUTLINE

### THESIS STATEMENT

Transgender community in Pakistan is facing multifaceted turmoil. It is a dire need of time to protect basic rights of this oppressed and discriminated community.

### I. INTRODUCTION

The Transgender community in Pakistan has faced multiple levels of legal, institutional and societal discrimination. While the constitution of Pakistan protects all citizens irrespective of their gender, race and ethnicity. However, these ~~trans~~ rights are not translated into laws and protection mechanisms with respect to vulnerable groups and specifically the transgender community.

### II. Defining transgender

Transgender is an "Umbrella Term" (American Psychological Association)

### III. History of Transgender culture in Sub-continent.

Case in Point: i - "Hijraism"

- ii - 1860 Penal code Act
- iii - Criminal Tribes Act 1871
- iv - 2009 Pakistan recognized Transgender People
- v - 2010 NADRA issued NIC
- vi - Right to vote.

### IV. CONTEMPORARY OVERVIEW OF STATUS of Transgender People in Pakistan.

Case in Point: i - 2018 - Transgender Person Protection of RIGHTS ACT

ii - Multiple organizations  
eg. Aurat Foundation

iii - Transgender people taking on powerful careers

Success stories → Sara Gill, Nisha Rao,  
Aisha Mughal

v. Despite remarkable achievement, what are issues faced by Transgender People?

#### 4. SOCIAL ISSUES

1. Who am I? Gender, culture & identity?
2. Family isolation.

3. Lack of respect and acceptance  
Case in Point: Aulst Foundation Report ✓

4. Social discrimination, no social security, welfare and protection  
Case in Point: Imamia colony  
transgender expelled ✓

5. Sexual violence, rape and abuse culture. ✓

Case in Point: CEDAW Report

75% trans people in Pakistan face sexual abuse ✓

## B. HEALTH ISSUES.

1. Mental health issues.

Case in Point: USAID - Aulst Foundation report: 34% Eunuchs embraced suicides and social isolation. ✓

2. HIV and AIDS

Case in Point: 7.2% HIV and AIDS cases ✓

(Canada - Pakistan Surveillance HIV Project Report) ✓

## C. ECONOMIC and FINANCIAL ISSUES.

1. Sources of Income. ✓

a. Seasonal Flow of money

b. Financial trouble ✓

4. Mainstreaming Transgender ✓

## D. POLITICAL ISSUES

- i- No right in inheritance.
- ii- No access to justice.

Case in Point: Police make fun and harassment

## VI. RECOMMENDATIONS

1. Social Empowerment
2. Political will and commitment
3. Active media's Participation
4. Healthcare Provisions
5. Strict Policies and laws and Punishment culture.
6. Together-We-can approach

## CONCLUSION

- i. Summary of ideas.

"We should have social activities where we get to know transgenders over a cup of tea or in a cricket match. It's not enough to just pity them. We should get to know them as fellow Human Beings"

(Dr. Aslam Khaki - Supreme Court Ex. Advocate)

Since independence, the transgender community in Pakistan has faced multiple levels of legal, institutional and societal discrimination. While, the Constitution of Pakistan protects all citizens irrespective of their gender identities, ethnicities and ages. Moreover, Article 25, 26<sup>2</sup>, 27 of the constitution of Pakistan specifically deals with safeguarding citizens against all kinds of discrimination. However, the contemporary situation of transgender community is not quite satisfactory. Transgender people who are given multiple names, such as Eunuchs, Hijras, Muxrats, Khasas, Khwaja Sinas and Mukhannas are still facing multiple social issues, health, economic and political issues. Social isolation and discrimination leads them to a nexus of problems and brutalities. Therefore, it is a call to action for policy maker, social welfare institutions and NGOs to take effective steps to protect fundamental right of marginalized transgenders. This essay sheds light on the plight of transgender on different fronts in Pakistani society. Besides, the essay also suggests way forwards to curtail discrimination against trans people.

The term transgender is defined as an "umbrella term", encompassing all genders, sexes and gender variant.

identities. This term is usually applied to the "person whose gender identity, gender expressions or behaviour does not conform to that of sex which is usually assigned to them at birth", says American Psychological Association (APA). However, in Pakistan, trans-genders are given multiple names, such as Hijras, Mowats, Khwaja Siras, Khusra, Zanana or Mukhannas. These names are given as an adjective on the basis of quality, which further qualifies a noun. The term 'Hijras', for transgenders, is a social identity and it is a complete culture in Pakistan, having its roots from subcontinent.

In subcontinent, Hijraism was a South Asian subculture, prescribing its own values, mores, norms and traditions.

Transgenders were considered a "Women Soul" in male body. Trans people in Mughal harems, used to enjoy power and prestige. People considered them a unique soul, which brings fertility and good fortune and their prayers are answered by God. However, with the advent of British, the hijraism faced declined because of 1860 Penal code 377, that banned homosexual relationships, declaring them crime. It is believed that masculine British minds considered 'Male' as an apex of society. Adding more to the plight of transgenders, British government passed (Criminal Tribes Act - 1871) to stop and control all eunuchs activities.

The same law was revoked by Ayub Khan in (1960) banning Hijra activities. However, since 2009, transgender community enjoyed rights when Supreme court of Pakistan recognized them as third gender and asked NADRA to issue them identity cards. In 2012, Supreme court enforced right to vote and election for transgender community for the first time.

Till today, the Government of Pakistan has issued and enforced multiple acts and policies with the help of international organizations and NGOs' efforts. The recent development in this scenario is the enforcement of Transgender Person Protection of Rights Act (2018) that gave rights of protection against sexual violence and abuse. In addition to this, transgenders have given a right to choose their identity on national identity card. However, despite all those legal frameworks and policies, transgender community in Pakistan is still encountering discrimination on multiple fronts. Although multiple human rights protection organizations and activists are grappling to protect their self-esteem, dignity and gender identity, the society is giving them hard time.



A transgender, hijra or khwaja  
sing starts facing problems when they  
are criticized by their fellows in  
schools, streets and even in family. Self-  
identification becomes a challenge to a  
trans, the person who is already going  
through multiple complexities of physical  
and mental origins, has to face self-  
identification challenge. Who am I?  
What is my gender? What is my  
cultural identity? These are some of the  
questions that start targeting cognitive  
functioning and thinking process of a  
trans child. says The Asia Foundation  
Report on gender equality.

At least, the next phase of  
torment is family isolation because of  
typical society's mindset families push  
their dear child out of the home. This  
social outcast on losing family means losing  
much of social entitlements. The sad  
fact is, families do not care how a  
person will survive with this gender identity  
crisis at an early stage of life. According  
to the report of Convention on Discrimination  
elimination against women (CEDAW), almost  
10.2% of families with a trans child,  
outcasts them because of social pressure.  
Although, in some cultures and regions  
of Pakistan, hijras are taken care of  
like a pure and unique soul, some of  
the societies feel ashamed on the birth  
of a transgender.

After kicking out of a happily family structure, transgender encounter lack of respect and acceptance from society. There are plenty of problems that are rooted in the social exclusion of transgender community from mainstream Pakistani society, says report of USAID- Aurat Foundation Project on Gender Equality. The society not only isolates them but also discriminate them while performing their transgender activities on marriage functions and other events. Instead of helping them, people close their doors on them leaving them in jeopardy.

Moreover, transgender community face social discrimination on multiple levels, such as they are not welcomed in educational institutes. According to the study conducted by The Asia Foundation, only 34% of respondents were literate. Although, some educated and liberal families accept their child's ambiguous identity and send them to schools, 42% of transgender leave education due to humiliation and discriminatory behavior of their class fellows. Similarly, transgender community is not given social security and protection. According to a report, In a bomb blast incident of Inamria Colony Peshawar, people outcasted the whole transgender community from the colony just because they

bring misfortune. What about their homes in the colony? No one took initiative to give them social security. Likewise, situations prevail in many regions of Pakistan where transgender community is battling with such gruesome issues of social protection.

Adding more to the plight of transgender community is increasing rate of sexual violence, sexual abuse and rape culture. Transgenders who earn their livelihood by dancing and prostitution are prone to sexual violence and rape-culture. Convention on Elimination of all kind of Discrimination against Women reported that 75% of transgenders in Pakistan face sexual abuse. People call transgenders for dancing in their events which usually end into gang-rape cases and sexual exploitation. Therefore, Male-to-Male Sexual exploitation and sex workers are prevalent in Pakistani society.

The underlying social issues, sexual violence, social isolation and family isolation lead a transgender or Hijra to multiple health issues, such as mental agony, emotional distress, suicidal tendencies, alcohol and drugs uses, self-harm and <sup>other</sup> mental disorders. According to a study report of USAID, 34% Eunuchs embraced suicide or have tried self-harm. The

Percentage of alcohol and drug users among transgenders is also surging pushing them to more vulnerabilities and problems. The recent studies also show that masculinity mind-set society takes advantage of transgenders when they are under drugs. Ummat's Rani's case is a good example to quote in this regard when she was head shaved. While she reports she asked the exploiter to rape her instead of shaving her head. Having long hair is the feminine identity of transgenders. They prefer to get raped instead of getting their head shaved. In most of the cases, shaving a transgender's head pushes them to mental disorders, such as anxiety, stress and depression according to the report of Aurat Foundation, 14.9% of mental health issues are reasons of head shaving, while 4.8% of transgender tend to isolate themselves because of social exclusion and family isolation.

Furthermore, sexworkers among transgender community are more prone to HIV and AIDS. According to the results of HIV Second Generation Surveillance in Pakistan National Report Round IV, 7.2% of HIV and AIDS victims are involved in male sex workers or Homosexual sexual work, which is reported highest in Larkana, 14.9%.

The report says that 90% of transgender community have knowledge of HIV and AIDS, and how they prevail but they are unable to stop sex works as they do not find other resources to support their families back. Therefore they prefer jeopardizing their physical and mental health over poverty and financial problems, which is a dilemma for transgender community.

In addition to this, economical and financial troubles and disparities of transgenders are on the top. Since the revival of Criminal Tribes Act in Pakistan, transgenders are banned to earn their income through traditional means, such as Toll (a group activity to ask for charity) and Vidhaci (an activity to congratulate families having a new born). Therefore, hijras are pushed to earn their livelihood by dancing, sex work, begging, <sup>and</sup> blue-collar jobs. Following such professions would make them more prone to social and sexual exploitation and sometimes physical torture.

With professions of begging, dancing on functions and family gathering events, there arises another problem that these celebrations are always seasonal. In Punjab, usually

people plan marriages at the end of crop or harvesting. Therefore, hijras encounter seasonal flow of money with the end of marriage and dance season. After that, they go with other activities like prostitution or begging. As transgenders claim they support their families of birth or biological families, no matter if they have abandoned them. Therefore, they face issues to meet their both ends.

Similarly, not letting transgenders in mainstream Pakistan job market is another question mark. Hijras complain that employers do not entertain their job applications and if they do, they ask them not to do makeup and avoid female-like dressing in the office premises. This can be illustrated with the case on Punjab Public Service Commission, when it rejected application of a transgender for the post of Under Lecturer. The transgender filed a case in Lahore High Court and Punjab Public Service Commission had to appoint him on Lecturer post. Therefore, here arises a question, if employers are ready for mainstreaming transgenders into job opportunities?

Taking it to the next level is the exploitation of political rights of transgender community. Although, in 2010, NADRA has given identity to transgender, it is useless if they are asked to register their Ghusn's name as father. Taking the name of biological father deprives them from property rights and rights in inheritance which is a form of exploitation. Transgenders complain about Ghusn keep changing, so they must have right not to change their father name in documents.

Moreover, despite all political, national and international efforts, Pakistan has not been able to provide access to justice. The judiciary system of Pakistan for transgender people is the root cause of the plight of transgender community. Because, there is no system to entertain complaints of transgenders. In most of the reported cases, police is blamed to get benefit of vulnerabilities of this marginalized community by making fun of them and harassing them more. Plenty of cases are not registered because of carelessness and unethical and criminal behavior of Police department. Therefore, it is a need of time to protect rights of this marginalized segment.

One of the most important solutions is to empower transgender community as a whole. Ongoing movements on transgender rights by transgender <sup>well-known</sup> activists are examples of a positive change. The government of Pakistan must take initiative to develop legal framework and policies to empower hijras in the society. They must be given equal opportunities of education, employment and political rights to make their back strong.

However, this is a zero-sum game, if leadership does not show willingness and commitment to promote harmony among transgenders. Policy makers must show commitment and iron-cast determination to work with transgender activists and organization to protect them against sexual, social and economical exploitation, not only in papers but also in reality.

Promotion through media could be conducive to sensitize society about rights and ongoing vulnerabilities of transgender community. Shaameen Obaid Chinnoy's documentaries, such as Transgenders: Pakistan's open secret, Shoaib Mansoor's Bol movie and other programs like



Chuppan Chupai, Begum Nawazish Ali and Bindia Chamkygi, are well-known examples to show active participation of media. Government should force media to make more documentaries and programs to change society's attitude towards oppressed transgender community.

Medical professionals must also play their part to help government and policy makers to add more health provisions regarding transgender's specific health issues in mainstreaming medical practices. Transgender community must be provided with health facilities on economical rates so that they can afford. Moreover, medical professionals should take initiative to popularize gender change surgeries so that transgenders can easily adopt and change their identities.

Nothing is possible if exploiters are not punished. Leaving exploiters and offenders at large, gives a hint of relaxation and initiative to exploit more transgenders. Therefore, government must ensure strict laws and punishment policies for culprits to teach a lesson.

The last but not the least is the adoption of integrated and holistic approach, without the help of society, families of transgenders and transgender communities, possible outcome cannot be achieved. Everyone should adopt individual approach to sensitise other members of the society about vulnerabilities and exploitation of transgenders. People must realize that they are human beings and deserve same respect as every normal human being has. For that purpose, religious personalities, seminaries and institutes can also play effective role by educating masses about importance of equality, justice and kindness in Islam and <sup>the</sup> Quran.

To conclude, It is an undeniable fact that the government of Pakistan has gone so far to protect basic rights of transgenders but there are always grey areas which can be improved by taking strong actions on national, societal and individual level. An integrated approach, including all institutes of society can be fruitful to achieve gender equality for transgender community.

"We should have social activities where we get to know transgressors over a cup of tea or a cricket match. It's not enough to just pity them. We should get to know them as fellow human beings"

~~Excellent~~  
(Dr. Aslam Khaki)

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