

INITIATIVES OF GOVERNMENT OF
PAKISTAN ON PROTECTION OF
RIGHTS OF TRANSGENDER COMMUNITY

MINISTRY OF HUMAN RIGHTS

DEFINITION

A Transgender Person is:

- intersex (khusra) with mixture of male and female genital features or congenital ambiguities: or
- eunuch assigned male at birth, but undergoes genital excision or castration; or
- a transgender man, transgender woman, Khawaja Sira or any person whose gender identity or gender expression differs from the social norms and cultural expectations based on the sex they were assigned at the time of their birth.

HISTORY OF LEGAL & POLICY REFORMS FOR RIGHTS OF TRANSGENDER COMMUNITY

- Almas Bobi the president of *Shemale Rights of Pakistan* (an association working for the advancement of the rights of transgender), alongside lawyer Aslam Kahki, filed a petition under Article 184 (3) of the *Constitution of Pakistan* in the Supreme Court in 2009 against the molestation and widespread humiliation of transgender individuals.
- In the first Order, delivered on 4 November 2009, the Supreme Court ordered the attorney general of Pakistan to prepare a framework for federal and provincial governments to recognise transgender individuals as respectable citizens of Pakistan.
- In the second Order delivered on 20 November 2009, the Supreme Court ruled that families cannot deprive transgender individuals of their legal inheritance by disowning them because of who they are.

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- In the third Order, dated 23 December 2009, the Court read Article 22(4) of the Constitution of Pakistan, which allows any public authority to make “provision for the advancement of any socially or educationally *backward class of citizens*” (emphasis added), and Article 25 (the right to equality) and ordered the government to devise a special policy for the benefit of transgender people.
- In the final two Orders, the Court analysed policy initiatives taken by the federal and provincial governments in promoting the rights of transgender individuals in Pakistan, since its first Order.
- In its penultimate Order of 22 March 2011, the Court expressed satisfaction at the new NADRA policy, under which transgender individuals could register their non-binary gender identity as a separate gender category on their NIC.

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- In 2016, a transgender individual petitioned the Lahore High Court in *Mian Asia v Federation of Pakistan through the Secretary Finance and two others*, against a discriminatory executive policy. The petitioner was denied renewal of his NIC because he was unable to provide the name of his father.
- The high court ruled that NADRA cannot deny NIC to a transgender person solely on the ground that they are unable to provide proof of their parentage. During the trial, NADRA changed its policy to accommodate such people.
- The Supreme Court Orders were successful in highlighting the bleak state of transgender rights and generating momentum for reforms. This ultimately led to the enactment of the *Transgender Persons (Protection of Rights) Act in 2018* by the National Assembly of Pakistan.

LEGAL & POLICY PROTECTIONS

- Constitution of Pakistan, 1973
- Transgender Persons (Protection of Rights) Act, 2018
- National Action Plan on Human Rights (2020–2025)
- National Action Plan on Business and Human Rights (2021–2026)

VARIOUS INITIATIVES UNDERTAKEN FOR PROTECTION OF RIGHTS OF TRANSGENDER COMMUNITY

- **Rules for the Transgender Persons Act, 2018:** The Rules for the Act were approved by the Cabinet on 14th January, 2021 and notified accordingly
- **Transgender Protection Center:** Under Section 6 (a) of the Act, the Ministry of Human Rights has established a Transgender Protection Center at Islamabad to provide temporary shelter, rehabilitation, referral services and other medical and psychological care to this vulnerable segment of the society.
- **Consultations and Sensitization Meetings with Police:** The Ministry of Human Rights conducted sensitization sessions and consultative meetings with Police.

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- Police Guidelines for Engagement with Transgender Persons were finalized and shared with the concerned Police officials in Islamabad and Rawalpindi for effective implementation of the Act;
- Designed wall posters on "Treatment/Dealings of Police Officials with Transgender Persons" for Police Stations;
- Translated Police Guidelines into Urdu;
- Developed a strong liaison with the Rawalpindi Police for the protection of rights of transgender persons through regular correspondence;
- Five sessions at Islamabad, Lahore, Peshawar, Karachi and Quetta have been organized wherein 150 police officers have been sensitized on the Act, Rules, and Police Guidelines.

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- **Health Cards:** Health Cards for transgender persons in Pakistan were also launched. In this regard, the Ministry of Human Rights assisted the Ministry of National Health Services Regulation and Coordination in the distribution of health cards among the members of transgender population in a special event held at the Prime Minister's house.
- **Opening of Separate Ward in Hospitals:** Separate ward has been allocated at Pakistan Institute of Medical Sciences (PIMS) hospital, Islamabad for transgender citizens. In 2018-2019, the Honorable Federal Minister for Human Rights requested all Chief Ministers to do the same in provinces.
- **Provincial Consultations:** Provincial Consultations/Meetings in collaboration with United Nations Development Programme (UNDP) Pakistan were conducted in all four provinces in order to reduce transphobic stigma and discrimination against transgender persons.

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- **Sensitization Sessions with National Database and Registration Authority (NADRA):** Sensitization Workshops have also been conducted with NADRA officials at Multan, Faisalabad, Islamabad, Sargodha and Peshawar regions.
- **Helpline 1099:** The Ministry of Human Rights through this Helpline provides all citizens including transgender community a platform to complain and also link transgender persons to offices of Inspector Generals of all provinces and Islamabad Capital Territory for registration of cases of violence.
- **Guidelines for Healthcare Providers:** The Ministry of Human Rights has drafted the guidelines for healthcare providers in order to provide better treatment to transgender persons and also organized a consultation in Islamabad with healthcare providers on these said guidelines.

CHALLENGES

- The Ministry has compiled data on human rights violation cases of transgender persons reported in electronic and print media. Total **76** cases were reported in the country between 2020-2022.
 - Discrimination and Stigma
 - Violence and Harassment
 - Lack of Awareness among transgender community about their rights
 - Socio-economic Challenges

RULING OF FEDERAL SHARIAT COURT IN MAY 2023 AGAINST TRANSGENDER PERSONS (PROTECTION OF RIGHTS) ACT, 2018

- The part of definition related to transgender man, transgender women and Khawajasira whose gender identity or gender expression differs from social norms and cultural expression based on sex at birth has been declared un-Islamic.
- The transgender Persons (Protection of Rights) Act, 2018 will remain intact except only three sections (section 2 (f) related to definition of gender identity, Section 3 related to self-perceived identity and section 7 related to inheritance), declared un-Islamic and against Islamic teachings. Other sections and rights mentioned in the Act including protection, education, health, freedom of speech, association and dignity will remain intact.
- Currently the ruling has been appealed in the Supreme Court of Pakistan.

WAY FORWARD

- Ministry of Human Rights will continue its sensitization and awareness raising campaigns on rights of transgender community.
- Ministry of Human Rights will continue its liaison with all relevant federal/provincial stakeholders and development partners to protect rights of transgender community.
- Advocacy of laws/policies at Provincial levels.

THANK YOU