



House of the Federation

SENATE OF PAKISTAN

REPORT NO. 22

REPORT OF THE STANDING COMMITTEE ON HUMAN RIGHTS

ON

***“The Transgender Persons (Protection of Rights)
(Amendment) Bill, 2022”***

Presented by:

**SENATOR WALID IQBAL
CHAIRMAN**

STANDING COMMITTEE ON HUMAN RIGHTS

SENATE SECRETARIAT

Subject: REPORT OF THE STANDING COMMITTEE ON HUMAN RIGHTS.

I, Chairman of the Standing Committee on Human Rights, have the honour to present this report on "The Transgender Persons (Protection of Rights) (Amendment) Bill, 2022" introduced by Senator Syed Muhammad Sabir Shah, in the Senate sitting held on 3rd October, 2022. The Bill, upon introduction, was referred to the Standing Committee for consideration and report.

2. The composition of the Standing Committee is as follows:-

1.	Senator Walid Iqbal	Chairman
2.	Senator Prof. Dr. Mehr Taj Roghani	Member
3.	Senator Mohammad Humayun Mohmand	Member
4.	Senator Seemee Ezdi	Member
5.	Senator Syed Faisal Ali Subzwari	Member
6.	Senator Quratul Ain Marri	Member
7.	Senator Kamran Michael	Member
8.	Senator Mushahid Hussain Sayed	Member
9.	Senator Abida Muhammad Azeem	Member
10.	Senator Muhammad Tahir Bizinjo	Member
11.	Senator Irfanul Haque Siddiqui	Member
12.	Senator Falak Naz	Member
13.	Senator Syed Waqar Mehdi	Member
14.	Minister for Human Rights	Ex-officio Member

3. The Committee considered the Bill in its meetings held on 21st October, 2022, 26th January, 2023, 13th February, 2023, 17th February, 2023 and 14th March, 2023, respectively, under the Chairmanship of Senator Walid Iqbal. Final consideration of the Bill was held in the meeting held on 14th March, 2023, which was attended by the following Honorable Senators:-

1.	Senator Walid Iqbal	Chairman
2.	Senator Prof. Dr. Mehr Taj Roghani	Member
3.	Senator Mohammad Humayun Mohmand	Member
4.	Senator Seemee Ezdi	Member
5.	Senator Muhammad Tahir Bizinjo	Member
6.	Senator Irfanul Haque Siddiqui	Member
7.	Senator Falak Naz	Member
8.	Senator Syed Waqar Mehdi	Member
9.	Senator Mushtaq Ahmed	Mover
10.	Senator Molvi Faiz Muhammad	Mover
11.	Senator Kamran Murtaza	Mover

4. Senator Syed Muhammad Sabir Shah Member-In-Charge briefed the Committee about the salient features of the Bill that the transgender law was enacted by Parliament in 2018 to provide legal recognition to transgender persons. It enshrines transgender persons' equal rights to education, basic health facilities, the right to affirm their transgender identity on ID cards and passports, as well as the right to vote in and contest elections. The main concept was that the transgender persons are also human beings, and the legislation was meant to protect their rights, including inheritance, education, employment, health and purchase of property. The act has a chance of weakness or misuse of it as the complaints started coming after two years on a provision that there was a possibility that sections 3 and 4 could be misused. According to the aforementioned sections, after reaching the age of 18 years, transgender persons could declare their genders on their identity cards. It should be suitably amended and made subject to the decision of the Medical Board. Furthermore, the Act is devoid of one more compressing issue i.e. disowning of transgender child and adoption of same by khwajasira community. Verily one is shocked to know that most of the parents do not accept their transgender-children and are in utter disregard of their instinctive urge and the deep rooted parental love and attachment. A young trans child, when turned out from a parents' home, their family and nearly all the relatives show no sympathy toward the child who has to stiffer for it. In these circumstances transgender-children are forced to join the khwajasira community, which, in such a critical situation is the only resort for the banished child. The community provides such children with the basic necessities of life. They, in turn, adopt the profession of dancing and entertainment etc. Actually, lack of education and awareness is also a factor responsible for this state of affairs. Educated and civilized parents do not let others know about their child's gender identity. On the other hand, if such a child is disowned by all his/her dear-ones then they have no option but to join the khwajasira community which is the only door open to them for earning their livelihood.

5. As per the stance taken by the Ministry of Human Rights, the aforesaid Bill alongwith other pending Bills on the same subject have been thoroughly examined by the Ministry. It has been observed that all of the Bills seek to amend or repeal the Act 2018 primarily with respect to "definition of Transgender", "to substitute word Transgender with intersex/khunsā", "right to self-perceived gender identity", "constitution of medical board to establish identity as Transgender" and "procedure to calculate the share of inheritance". It is informed that the Transgender Persons (Protection of Rights) Act, 2018 is currently sub-judice before the Federal Shariat Court with respect to the "definition of Transgender from the perspective of Islam" and related "right to self-perceived gender identity". Accordingly, this Ministry is of the view that the cited Act, 2018 may not be amended till the Federal Shariat Court (FSC) give its judgment concerning the same. After the receipt of the judgment

from the FSC, the appropriate action to amend the subject Act in compliance to the Court's decision will be initiated accordingly. The Ministry suggested that we may wait for the decision of the Federal Shariat Court before initiating any action to either amend or repeal the Act, 2018.


6. The Committee took note that following five other Bills to amend or repeal The Transgender Persons (Protection of Rights), with the somewhat identical object and reasons, have been introduced in the Senate and same are pending with the Committee:-

- i. The Transgender Persons (Protection of Rights) (Amendment) Bill, 2021" introduced by Senator Mushtaq Ahmed, in the Senate sitting held on 15th November 2021.
- ii. The Transgender Persons (Protection of Rights) (Amendment) Bill, 2022" introduced by Senator Fawzia Arshad, in the Senate sitting held on 26th September, 2022.
- iii. The Khunsa Persons (Protection of Rights) Bill, 2022" introduced by Senator Mushtaq Ahmed, in the Senate sitting held on 3rd October, 2022.
- iv. The Transgender Persons (Protection of Rights) (Amendment) Bill, 2022" introduced by Senator Mohsin Aziz, in the Senate sitting held on 3rd October, 2022.
- v. The Transgender Persons (Protection of Rights) (Amendment) Bill, 2022" introduced by Senators Molana Abdul Ghafoor Haideri, Atta-Ur-Rehman, Molvi Faiz Muhammad and Kamran Murtaza, in the Senate sitting held on 3rd October, 2022.

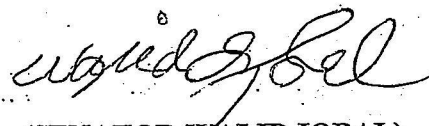
7. The Committee extensively deliberated upon all the Bills and also invited concerned stakeholders to give their input. In pursuance of Ruling of the Hon'ble Chairman Senate of Pakistan dated 03-10-2022, Senator Walid Iqbal, Chairman Standing Committee on Human Rights, had also written letters to all Members of the Senate inviting them to attend the meeting of the Standing Committee on Human Rights to give their valuable input or to share their input in writing.

8. In the meeting dated 13-02-2023, it was decided that all the Bills, including this Bill and the Bills mentioned at Para 6 above should be clubbed and a comprehensive Bill addressing all issues shall be drafted by the Committee. The Member-in-Charge of this Bill and other Bills as well, also endorsed this proposal. Accordingly, the Committee in consultation with the Members-in-Charge of the Bills has drafted a Bill titled as "The Khunsa (Intersex) Persons (Protection of Rights) Bill, 2023" has been drafted and same has been passed by the Committee on 14-03-2023. As per the requirements of Senate Rules, the said Bill is being laid before the House in the form of a special report.

9. Accordingly, the Committee recommends that "The Transgender Persons (Protection of Rights) (Amendment) Bill, 2022", as introduced in the Senate may not be passed by the House. (Copy of Bill as introduced in the Senate is annexed as "A").



(RABEHA ANWAR)
J.S/ Secretary Committee



(SENATOR WALID IQBAL)
Chairman Standing Committee on Human Rights

A

BILL

further to amend the Transgender Persons (Protection of Rights) Act, 2018

WHEREAS it is expedient further to amend the Transgender Persons (Protection of Rights) Act, 2018 for the purposes herein after appearing;

It is hereby enacted as follows:-

1. Short title and commencement.-(1) This Act may be called the Transgender Persons (Protection of Rights) (Amendment) Act, 2022.

(2) It shall come into force at once.

2. Amendment of section 3, Transgender Persons (Protection of Rights) Act, 2018. -

In the Transgender Persons (Protection of Rights) Act, 2018, hereinafter referred to as the Act, in section 3, following amendments shall be made namely

- i. In subsection (1) for the expression "have a right to be recognized as per his or her self-perceived gender identity" the expression, "as determined by the Medical Certificate issued by the concerned Medical Board" shall be substituted.
- ii. In subsection (2) for the phrase "self-perceived", the expression, "Medical Certificate" shall be substituted.
- iii. In subsection (3) for the phrase "self-perceived", the expression, "Medical Certificate" shall be substituted.
- iv. In subsection (4) for the phrase "self-perceived", the expression, "Medical Certificate" shall be substituted.

3. Insertion of Section 4A after section 4 of the Act. - In the Act after section 4 a new section 4A shall be added namely,

"Prohibition against disowning of transgender baby. - No parent shall be allowed to disown the transgender baby born to him/her.

4. Insertion of Section 5A after section 5 of the Act. - In the Act after section 5 a new section 5A shall be added namely,
"Prohibition against adopting of transgender baby by Gurus. - No Guru shall be allowed to adopt or carry the transgender baby, forcefully or by consent, born to any parent."
5. Amendment of section 7 of the Act. - In the Act, in section 7, in subsection (3) following amendments shall be made namely
- i. In clause (a) for the phrase "self-perceived", the expression, "Medical Certificate" shall be substituted.
 - ii. In clause (b) for the phrase "self-perceived", the expression, "Medical Certificate" shall be substituted.
 - iii. In clause (c) for the phrase "self-perceived", the expression, "Medical Certificate" shall be substituted.
6. Amendment of section 17 of the Act. - In the Act, in section 17, after subsection (1) following new subsection (2) shall be added namely,
"Whoever contravenes the provisions of section 4A and 5A shall be punishable with imprisonment which may extend to one year or with fine of five lac rupees or with both."

STATEMENT OF OBJECTS AND REASONS

The law was enacted by parliament in 2018 to provide legal recognition to transgender persons. It enshrines transgender persons' equal rights to education, basic health facilities, the right to affirm their transgender identity on ID cards and passports, as well as the right to vote in and contest elections.

The main concept was that the transgender persons are also human beings, and the legislation was meant to protect their rights, including inheritance, education, employment, health and purchase of property.

The act has a chance of weakness or misuse of it as the complaints started coming after two years on a provision that there was a possibility that sections 3 and 4 could be misused. According to the aforementioned sections, after reaching the age of 18 years, transgender persons could declare their genders on their identity cards. It should be suitably amended and made subject to the decision of the Medical Board.

Furthermore, the Act is devoid of one more compressing issue i.e. disowning of transgender child and adoption of same by khwaja sira community. Verily one is shocked to know that most of the parents do not accept their transgender-children and are in utter disregard of their instinctive urge and the deep rooted parental love and attachment. A young trans child, when turned out from a parents' home, their family and nearly all the relatives show no sympathy toward the child who has to suffer for it. In these circumstances transgender-children are forced to join the khwaja sira community, which, in such a critical situation is the only resort for the banished child. The community provides such children with the basic necessities of life. They, in turn, adopt the profession of dancing and entertainment etc. Actually, lack of education and awareness is also a factor responsible for this state of affairs. Educated and civilized parents do not let others know about their child's gender identity. On the other hand, if such a child is disowned by all his/her dear-ones, then they have no option but to join the khwaja sira community which is the only door open to them for earning their livelihood.

The situation clamors to introduce the said bill.

The Bill has been designed to achieve the above said purpose.

SENATOR SYED MUHAMMAD SABIR SHAH
MEMBER-IN-CHARGE