



House of the Federation

## **SENATE OF PAKISTAN**

### **REPORT NO. 21**

### **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 Mohsin Aziz, in the Senate sitting held on 3<sup>rd</sup> 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.	<b>Senator Walid Iqbal</b>	<b>Chairman</b>
2.	Senator Prof. Dr. Mehr Taj Roghani	Member
3.	Senator Mohammad Humayun Mohmand	Member
4.	Senator Seemee Ezdi	Member
5.	Senator Syed Faïsal 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 21<sup>st</sup> October, 2022, 26<sup>th</sup> January, 2023, 13<sup>th</sup> February, 2023, 17<sup>th</sup> February, 2023 and 14<sup>th</sup> March, 2023, respectively, under the Chairmanship of Senator Walid Iqbal. Final consideration of the Bill was held in the meeting held on 14<sup>th</sup> March, 2023, which was attended by the following Honorable Senators:-

1.	<b>Senator Walid Iqbal</b>	<b>Chairman</b>
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 Mohsin Aziz Member-In-Charge briefed the Committee about the salient features of the Bill that The intersex persons (commonly known as Khwajasara) face

tremendous social and other problems in the society and their rights must be protected. "The Transgender Persons (Protection of Rights) Act 2018" has not been able to effectively address their problems amicably and effectively. This Act has grossly intruded on the rights of women who are already deprived of many rights and face enormous issues and discrimination. Whereas under this Act a man, as per his self perceived gender identity, can legally change his identity to woman as such "he" would be able to become member of the Parliament on reserved seats for women, get admission in female educational institution, utilize female facilities e.g. public toilets and parks reserved for women and also claim inheritance rights etc. in a similarly way a man, as per his self perceived gender identity, who has registered himself as woman shall have the legal right to marry a "person" who is registered as man thus opening a way to homosexuality and many other moral, social, psychological problems. A woman can also convert herself to a man and get married to a woman which would result in legalization of homosexual marriages against injunction's of Islam. Transgender is a mental, psychological problem and most of the time can be cured by counseling and therapy. These serious issues are not only against the social and cultural norms of our society, but also the basic teachings of Islam, which is the official religion of Pakistan and "no Law shall be made against Islam" as per the Constitution of Pakistan. It must be recognized that the primary objective of this Act is to protect the rights of Khawajasara called "intersex". It generally means a person with ambiguous genitalia and is also known as Hermaphrodite. The amendments have been introduced to bring the Act in line with spirit of this legislation, Constitution and Shariah.

5. As per the stance taken by the Ministry of Human Rights, the aforesaid Bill along with 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/khunsar", "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 the Committee 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 Khunsa Persons (Protection of Rights) Bill, 2022" introduced by Senator Mushtaq Ahmed, in the Senate sitting held on 3rd October, 2022.
- iii. The Transgender Persons (Protection of Rights) (Amendment) Bill, 2022" introduced by Senator Fawzia Arshad, in the Senate sitting held on 26th September, 2022.
- iv. 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.
- 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").

  
(RABEEA ANWAR)  
J/S/ Secretary Committee

  
(SENATOR WALID IQBAL)  
Chairman Standing Committee on Human Rights



INTRODUCED ON 03.10.2022

AS

**[TO BE INTRODUCED IN THE SENATE]**

**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 (XIII of 2018) for the purposes hereinafter appearing;

It is hereby enacted as follows:-

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

(2) It shall come into force at once

**2. Amendment of long title and preamble, Act XIII of 2018.-** In the Transgender Persons (Protection of Rights) Act, 2018 (XIII of 2018), hereinafter referred to as the said Act, in the long title and preamble, for the word "transgender", occurring twice the word "intersex" shall be substituted,

**3. Amendment of section 1, Act XIII of 2018.-** In the said Act, in section 1, in sub-section (1), for the word "Transgender" the word "Intersex" shall be substituted.

**4. Amendment of section 2, Act XIII of 2018.-** In the said Act, in section 2, in sub-section (1),-

(i) in clause (a), for the word "Transgender" the word "Intersex" shall be substituted;

(ii) in clause (c), for the word "transgender" the word "intersex" shall be substituted;

(iii) clause (e) shall be omitted;

(iv) for clause (f), the following shall be substituted, namely;-

**"(f) "gender Identity"** means a person's sexual identity that corresponds to his / her sex at birth whether male, female or intersex."; and

(v) in clause (l) after semi colon ";" occurring at the end the word "and" shall be added;

(vi) in clause (m) for the expression "; and" a full stop "." Shall substituted; and

(vii) clause (n) shall be omitted.

**5. Amendment of Chapter II, Act XIII of 2018.-** In the said Act, in Chapter II, in the heading for the word "TRANSGENDER" the word "INTERSEX" shall be substituted.

**6. Amendment of section 3, Act XIII of 2018.-** in the said Act, in section 3,-

- (i) in the marginal note, for the word "transgender" the word "intersex" shall be substituted;
- (ii) in sub-section (1),-
  - (a) for the word "transgender", the word "intersex" shall be substituted and for the expression "as per his or her self - perceived gender identity, as such," the words "sex at birth" shall be substituted; and
  - (b) in sub-section (2), for the words "as per self-perceived gender identity" the words "as per his / her sex at birth" shall be substituted; and
  - (c) sub-sections (3) and (4) shall be omitted.

**7. Amendment of section 4, Act XIII of 2018. -** In the said Act, in section 4,-

- (i) for the word "transgender", the word "intersex" shall be substituted; and
- (ii) in clause (i), for the word "transgender", the word "intersex" shall be substituted.

**8. Amendment of section 5, Act XIII of 2018.-** In the said Act, in section 5, for the word "transgender", the word "intersex" shall be substituted.

**9. Amendment of section 6, Act XIII of 2018.-** In the said Act, in section 6,-

- (i) for the word "transgender" the word "intersex" shall be substituted;
- (ii) in clause (a) for the word "transgender" occurring twice the word "intersex" shall be substituted;
- (iii) in clause (b) for the word "transgender" the word "intersex" shall be substituted;
- (iv) in clause (c) for the word "transgender" the word "intersex" shall be substituted;

- (v) in clause (d) for the word "transgender" the word "intersex" shall be substituted; and
- (vi) in clause (e) for the word "transgender", the word "intersex" shall be substituted.

**10. Amendment of Chapter V, Act XIII of 2018.-** In the said Act, in Chapter V, in the heading for the word "**TRANSGENDER**" the word "**INTERSEX**" shall be substituted.

**11. Amendment of section 7, Act XIII of 2018.-** In the said Act, in section 7,-

- (i) in sub-section (1), for the word "transgender", the word "intersex" shall be substituted;
- (ii) in sub-section (2), for the word "transgender" the word "intersex" shall be substituted.
- (iii) in sub-section (3),-
  - (a) for the word "transgender", the word "intersex" shall be substituted;
  - (b) in clause (i) for the word "transgender" the word "intersex" shall be substituted;
  - (c) in clause (ii) for the word "transgender" the word "intersex" shall be substituted; and
  - (d) in clause (iii), sub-clauses (a), (b), (c) and (d) shall be omitted.

**12. Amendment of section 8, Act XIII of 2018.-** In the said Act, in section 8,-

- (i) in sub-section (1), for the word "transgender" the word "intersex" shall be substituted;
- (ii) in sub-section (3), for the word "transgender", the word "intersex" shall be substituted; and

- (iii) in sub-section (4), after the words "person's sex" a full stop "." shall be inserted and the expression ",gender identity and gender expression," shall be omitted.

**13. Amendment of section 9, Act XIII of 2018.-** In the said Act, in section 9,-

- (i) in sub-section (1), for the word "transgender", the word "intersex" shall be substituted; and
- (ii) in sub-section (2), for the word "transgender", the word "intersex" shall be substituted.

**14. Amendment of section 10, Act XIII of 2018.-** In the said Act, in section 10,-

- (i) for the word "transgender", the word "intersex" shall be substituted; and
- (ii) in the proviso for the word "transgender", the word "intersex" shall be substituted.

**15. Amendment of section 11, Act XIII of 2018.-** In the said Act, in section 11, for the word "transgender", the word "intersex" shall be substituted.

**16. Amendment of section 12, Act XIII of 2018.-** In the said Act, in section 12,-

- (i) for the word "transgender", the word "intersex" shall be substituted;
- (ii) in clause (a), for the word "transgender", the word "intersex" shall be substituted;
- (iii) in clause (b), for the word "transgender", the word "intersex" shall be substituted; and
- (iv) in clause (c), for the word "transgender", the word "intersex" shall be substituted.

**17. Amendment of section 13, Act XIII of 2018.-** In the said Act, in section 13,-

- (i) in sub-section (1) for the word "transgender", the word "intersex" shall be substituted; and
- (ii) in sub-section (2) for the word "transgender", the word "intersex" shall be substituted.



**18. Amendment of section 14, Act XIII of 2018.-** In the said Act, in section 14,-

- (i) in sub-section (1) for the word "transgender", the word "intersex" shall be substituted;
- (ii) in sub-section (2) for the word "transgender", the word "intersex" shall be substituted; and
- (iii) in sub-section (3) for the word "transgender", the word "intersex" shall be substituted.

**19. Amendment of section 15, Act XIII of 2018.** In the said Act, -in section 15,-

- (i) in sub-section (1) for the word "transgender" the word "intersex" shall be substituted; and
- (ii) in sub-section (2) for the word "transgender" the word "intersex" shall be substituted.

**20. Amendment of section 16, Act XIII of 2018.-** In the said Act, in section 16, in sub-section (1) for the word "transgender", the word "intersex" shall be substituted.

**21. Amendment of section 17, Act XIII of 2018.-** In the said Act, in section 17, for the word "transgender" the word "intersex" shall be substituted.

**22. Amendment of section 18, Act XIII of 2018.-** In the said Act, in section 18, for the word "transgender" the word "intersex" shall be substituted.

#### **STATEMENT OF OBJECTS AND REASONS**

The Intersex persons (commonly known as *Khwajasara*) face tremendous social and other problems in the society and their rights must be protected. "The Transgender Persons (Protection of Rights) Act 2018" has not been able to effectively address their problems amicably and effectively.

This Act has grossly intruded on the rights of women who are already deprived of many rights and face enormous issues and discrimination. Whereas under this Act a man, as per his self perceived gender identity, can legally change his identity to woman as such "he" would be able to become member of the Parliament on reserved seats for women, get admission in female educational institution, utilize female facilities e.g. public toilets and parks reserved for women and also claim inheritance rights etc. In a similarly way a man, as per his self perceived gender identity, who has registered himself as woman shall have the legal right to marry a "person" who is registered as man thus opening a way

to homosexuality and many other moral, social, psychological problems. A woman can also convert herself to a man and get married to a woman which would result in legalization of homosexual marriages against injunctions of Islam. Transgender is a mental, psychological problem and most of the time can be cured by counseling and therapy. These serious issues are not only against the social and cultural norms of our society but also the basic teachings of Islam, which is the official religion of Pakistan and "no Law shall be made against Islam" as per the Constitution of Pakistan.

3. It must be recognized that the primary objective of this Act is to protect the rights of *Khawajasara* called "Intersex". It generally means a person with ambiguous genitalia and is also known as Hermaphrodite.

4. The term "Transgender" was launched by an American psychiatrist John F. Oliven in 1965. It was essentially meant for persons who experience sexual orientation against their sex at birth. This is primarily a disordered mental state where a man may "feel-like" a woman or a woman "feel-like" a man or sometimes even may have "fluid gender perceptions" which is called "Non-Binary" gender. It is psychological / psychiatric state of mind and cannot be equated to "Intersex".

5. With the above backdrop it is expedient to amend "The Transgender Persons (Protection of Rights) Act, 2018" to provide full protection to the rights of "intersex" (*Khawajasara*) population and vis-à-vis protect the rights of woman.

6. The Bill seeks to achieve the above objects.

**SENATOR MOHSIN AZIZ**  
**MEMBER-IN-CHARGE**