



House of the Federation

## **SENATE OF PAKISTAN**

### **REPORT NO. 19**

### **REPORT OF THE STANDING COMMITTEE ON HUMAN RIGHTS**

**ON**

***“The Transgender Persons (Protection of Rights)  
(Amendment) Bill, 2021”***

***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, 2021" introduced by Senator Mushtaq Ahmed, in the Senate sitting held on 15<sup>th</sup> November, 2021. 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 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 5<sup>th</sup> September, 2022, 3<sup>rd</sup> October, 2022, 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 Mushtaq Ahmed, Member-in-Charge, briefed the Committee about the salient features of the Bill that the Transgender Persons (Protection of Rights) Act, 2018

has effects that are repugnant to the injunctions of Islam and the Constitution of Pakistan including,- legalization of homosexual marriages; repugnancy to Law of inheritance in Quran; violation of dignity/modesty of Muslim Women; and making the recognition of Gender a subjective matter. Therefore amendments have been proposed to bring this Act in conformity with the injunctions of Islamic Shariah and the Constitution of Pakistan.

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/khunsa", "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:-

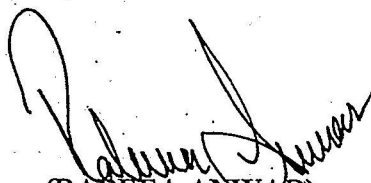
- i. The Transgender Persons (Protection of Rights) (Amendment) Bill, 2022" introduced by Senator Fawzia Arshad, in the Senate sitting held on 26th September, 2022.
- ii. The Khunsa Persons (Protection of Rights) Bill, 2022" introduced by Senator Mushtaq Ahmed, in the Senate sitting held on 3rd October, 2022.
- iii. The Transgender Persons (Protection of Rights) (Amendment) Bill, 2022" introduced by Senator Mohsin Aziz, in the Senate sitting held on 3rd October, 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. It is pertinent to mention for record purposes that Senator Mushtaq Ahmed, Member-in-Charge opposed inclusion of two clauses in the Bill drafted by the Committee providing definition of 'gender dysphoria' and protection of certain rights of persons with gender dysphoria.

10. Accordingly, the Committee recommends that "The Transgender Persons (Protection of Rights) (Amendment) Bill, 2021", 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

**[AS INTRODUCED IN THE SENATE]**

**A**

**BILL**

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

**WHEREAS** It is expedient and substantial to bring meaningful and significant amendments in 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 the Transgender Persons (Protection of Rights) (Amendment) Act, 2021.

(2) It shall come into force at once.

**2. Amendment of section 2, Act XIII of 2018.** – In the Transgender Persons (Protection of Rights) Act, 2018 (XIII of 2018), hereinafter referred to as the said Act, in section 2, in sub-section (1), in clause (n), paragraphs (ii) and (iii) shall be omitted.

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

(a) in sub-section (1), for the words "as per his or her self-perceived gender identity" the words "as per the advice of the Medical Board" shall be substituted;

(b) in sub-section (2), for the words "as per self-perceived gender identity" the words "as per the advice of the Medical Board" shall be substituted;

(c) in sub-section (3), for the words "self-perceived gender identity" the words "the advice of the Medical Board" shall be substituted; and

(d) in sub-section (4), for the words "his or her self-perceived gender identity" the words "the advice of the Medical Board" shall be substituted.

**4. Insertion of section 3A, Act XIII of 2018.** – In the said Act, after section 3, the following new section 3A shall be inserted, namely: –

**"3A Gender Re-assignment Medical Board.** – (1) There shall be a gender re-assignment medical board for each district.

(2) The gender reassignment medical board shall be notified after approval of the Prime Minister of Pakistan in case of Islamabad Capital Territory and Chief Minister in case of the respective Provinces.

(3) The gender re-assignment medical board shall comprise of the following:-

(i) One Professor Doctor	Convener
(ii) One male General Surgeon	Member
(iii) One Female General Surgeon	Member
(iv) One Psychologist	Member
(v) One Chief Medical Officer	Member/Secretary

**5. Amendment of section 7, Act XIII of 2018.** – In the said Act, in section 7, sub-section (3) shall be omitted.

**6. Insertion of section 12A, Act XIII of 2018.** – In the said Act, after section 12, the following new section 12A, shall be inserted namely:-

**"12A.** Any sex reassignment surgery or any other treatment to change the genital features of a male or female shall be prohibited on the basis of any psychological disorder or gender dysphoria."

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

The Transgender Persons (Protection of Rights) Act, 2018 has effects that are repugnant to the injunctions of Islam and the Constitution of Pakistan as it has the following effects;

- (a) Legalization of homosexual marriages;
- (b) Repugnancy to Law of Inheritance in Quran;
- (c) Violation of dignity/modesty of Muslim Women; and
- (d) Making the Recognition of Gender a Subjective matter.

Certain amendments in the said Act are proposed to bring this Act in conformity with the injunctions of Islamic Shariah and the constitution of Pakistan.

This Bill has been developed to achieve the aforesaid objectives.

**SENATOR MUSHTAQ AHMED**  
MEMBER-IN-CHARGE