

[AS INTRODUCED IN THE SENATE]

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to provide for the protection of rights of transgender persons and their welfare and for matters connected therewith and incidental thereto

WHEREAS it is expedient to provide for the protection of rights of transgender persons and their welfare and for matters connected therewith and incidental thereto.

It is hereby enacted as follows:-

**CHAPTER-I
PRELIMINARY**

1. Short title, extent and commencement.- (1) This Act may be called the Transgender Persons (Protection of Rights) Act, 2017.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

2. Definitions.- (1) In this Act, unless there is anything repugnant in the subject or context,-

(a) "Act" means the Transgender Person (Protection of Rights) Act, 2017;

(b) "Authority" means the National Database and Registration Authority;

(c) "Discriminatory Practices" means practices as mentioned in section 3 of the Act;

(d) "Gender Identity" refers to personal sense of identity as characterized among others by manner of clothing, inclinations, and behaviour in relation to masculine or feminine conventions;

(e) "Gender Recognition Committees" means Committees appointed under section 5 of the Act;

(f) "Government" means the Federal Government;

(g) "Public Place" means any place accessible to public such as auditorium, buildings, health institutions, amusement centres, restaurants, public offices, court buildings, cinema halls, conference or seminar halls, eating houses, hotel lounges, bus stations, sports stadiums, educational institutors, Libraries or any other place declared as public place by the Government;

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- (h) "Rules" means the rules made under this Act; and
- (i) "Transgender person" means a person who is,
 - (i) neither wholly female nor wholly male; or
 - (ii) a combination of female and male; or
 - (iii) neither female nor male;

and whose sense of gender does not match with the gender assigned to that person at the time of birth, and includes trans-men and trans-women, persons with intersex variations and gender-queers.

3. Prohibition against discriminatory practices.- No person shall discriminate against any transgender person in any of or more than one of the following ways:-

- (a) refusal of admission or expulsion from any educational or training institution;
- (b) biased or unfair treatment in relation to matters of employment or occupation;
- (c) denial of access to public or private medical or other health services;
- (d) denial of access to public places;
- (e) the denial of the right to participate in the elections;
- (f) unfair treatment in relation to right to movement;
- (g) the denial of the right to sale, purchase, rent, reside or otherwise occupy any property or premises;
- (h) denial of the opportunity to hold a public or private office; or
- (i) any other practice which the Government may declare as a discriminatory practice.

4. Recognition of identity of Transgender person.- (1) A transgender person shall have a right to be recognized as such, in accordance with the provisions of this Act.

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(2) A person recognized as transgender under sub-section (1) shall have a right to self-perceived gender identity.

5. Gender Recognition Committees.- (1) The Government shall establish as many Gender Recognition Committees as it deems fit for the purpose of recognition of transgender persons.

(2) The Gender Recognition Committee shall comprise of:-

- (a) A Medical Officer;
- (b) An officer of the Authority;
- (c) a Psychologist or Psychiatrist;
- (d) a representative of transgender community; and
- (e) a representative from the civil society.

6. Application for certificate of identity.- (1) A transgender person may make an application to the Authority for issuance of a certificate of identity as a transgender person, in such form and manner, and accompanied with such documents, as may be prescribed:

Provided that in the case of a minor child, such application shall be made by a parent of guardian of such child.

(2) On the receipt of an application under sub-section (1), the Authority shall refer such application to the Gender Recognition Committee, which shall make recommendations in such form and manner, within such time, as may be prescribed.

7. Issuance of certificate of identity.- (1) The Authority shall issue to the applicant under section 6 a certificate of identity as transgender person on the basis of the recommendations made by the Gender Recognition Committee, indicating the gender of such person as transgender.

(2) A certificate issued to a person under sub-section (1) shall confer rights and be a proof of recognition of his identity as a transgender person.

(3) The gender of transgender person shall be recorded in all official documents in accordance with certificate issued under sub-section (1).

8. Change in gender.- After the issuance of a certificate under sub-section (1) of section 7, if there is any change in the gender of a transgender person, he shall make an application to the Authority for revised certificate.

9. Transgender Welfare Committee.- (1) The Government shall establish a Committee to be known as the Transgender Welfare Committee.

(2) The Committee shall consist of ,-

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| (a) Minister for Human Rights; | Chairman |
| (b) Secretary, Ministry of Human Rights; | Member |
| (c) Minister for Law and Justice; | Member |
| (d) Secretary, Ministry of Law and Justice | Member |
| (e) Minister for Social Welfare Department, Balochistan; | Member |
| (f) Minister for Social Welfare, Department, Khyber Pakhtunkhwa; | Member |
| (g) Minister for Social Welfare Department, Punjab; | Member |
| (h) Minister for Social Welfare Department, Sindh; | Member |
| (i) Wafaqi Mohtasib; | Member |
| (j) Two representatives from the transgender community; and | Member |
| (k) Two representatives from the Non-Governmental Organizations (NGOs) working for the welfare of the transgender community. | Member |

(3) The Committee shall meet at least twice in a year.

10. Functions of the Committee.- The Committee shall perform following functions, namely;

- (a) to advise the Government on formulation of comprehensive policies for welfare and integration of the transgender community;
- (b) to design comprehensive strategies for elimination of all forms of discrimination against transgender persons;
- (c) to initiate public awareness campaigns to educate the public about the rights and status of the transgender persons;
- (d) to supervise and review the implementation of the provisions of this Act;

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- (e) to maintain coordination and liaison with government and non-government organizations working for the welfare of the transgender community;
- (f) to take initiatives to ensure full participation of the transgender persons in every sphere of life; and
- (g) to perform any other function as may be prescribed by the Government.

11. Welfare and Rehabilitation of Transgender Persons.- (1) The Government shall establish separate institutions for education and vocational training of transgender persons.

(2) The Government shall ensure that every healthcare institution provides all medical facilities to the transgender persons without any discrimination.

(3) The Government shall take initiatives to provide financial support to disabled transgender Persons.

(4) The Government shall establish a special helpline centre for gender based violence.

(5) The Government shall ensure that equitable employment opportunities are provided to the transgender persons.

(6) The Government shall establish rehabilitation centres for transgender persons who are abandoned by their parents or legal guardians.

12. Offences and Penalties.- (1) Whoever, discriminates against any transgender person in contravention of section 3, shall be punished with fine which may extend to one hundred thousand rupees.

(2) Whoever, endangers or threatens the life and safety of a transgender person shall be punished with imprisonment for a term which may extend to two years or with fine which may extend to one hundred thousand rupees or with both.

(3) Whoever, employs, compels or uses any transgender person for begging shall be punishable with imprisonment which may extend to six months or with fine which may extend to fifty thousand rupees or with both.

13. Act not in derogation of any other law.- The provisions of this Act shall be in addition to, and not derogation of, any other law for the time being in force.

14. Power to make rules.- The Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

15. Power to remove difficulties.- If any difficulty arises in giving effect to any provisions of this Act, the Government may make such order, not inconsistent with the express provisions of this Act, as may appear to it to be necessary or expedient for the purpose of removing the difficulty.

STATEMENT OF OBJECTS AND REASONS

Transgender community is one of the most marginalized communities in the country. Transgender persons face discrimination in educational institutions, healthcare centres, and other public places. Furthermore, transgender persons are routinely harassed and bullied, which has increased the troubles of this already oppressed community. The rising incidents of violence against the transgender person are testament to the plight of this community in the country.

The Constitution of the Islamic Republic of Pakistan ensures equal rights for all citizens. Article 25 of the Constitution provides for equality of all citizens. To ensure that the transgender persons enjoy equal rights there is an urgent need to introduce a specific legislation. This Bill strives to safeguard the rights of transgender persons.

This Bill strives to achieve the aforementioned objectives.

SENATOR KARIM AHMED KHAWAJA
Member In-charge