

Transgender Community in Pakistan: From Marginalized “aliens/others” to Empowered “Citizens”?

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Abstract

Almost a decade ago in 2009, a landmark decision of the Supreme Court of Pakistan set the trajectory for transgender community's future. This was considered as the first step that ignited a new spirit among the transgender community in Pakistan; and they started actively pursuing the struggle for their fundamental rights. Transgender community in Pakistan has been marginalized since the inception of Pakistan. In Pakistan, transgender individuals have been pushed to the margins/peripheries of the society facing extreme levels of discrimination, rejection, stigmatization, violence and “otherness”. For years, both state and society have considered these individuals and their communities as “others”, “abnormal” or “threat to the structure of the society”. Faced with these conditions, the transgender community also passively withdrew from the mainstream and accepted this as their fate. This article is aimed to explore and analyze the transition in the status and condition of transgender community in the last decade (2009-2019). It is also aimed to highlight the role of transgender community and other actors in bringing about the change in their status. Reviewing the last decade of activism led by the transgender community and other actors; it is demonstrated in this article that the transgender community has gained momentous/historic achievements (especially legal) since then. From extreme marginalization and stigmatization: they have started to earn respected status in the society. While in the past they were considered as “outcasts” and “others” by the society and state alike, now, they are mostly considered as an integral part of the society especially by the state.

Keywords: Transgender; State; Society; Political Struggle; Pakistan.

1. Introduction

Transgenderⁱ community is considered among the marginalized communities in Pakistan. According to the latest census survey the population of this community is around 11,000 individuals that are spread across all over Pakistan mostly inhabiting the urban parts of the country (Pakistan Bureau of Statistics, 2017). Historically, transgender community in this part of the world has maintained

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ⁱ Transgender individuals are known by different names in different vernacular languages of Pakistan. These names include *Khawaja sira*, *Khusra*, *Khadra*, *Hijra*, *Zankha*, *Zanana* and *Murat*.

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privileged status due to their presence and interaction with the Mughal courts and elite homes in sub-continent (Lal, 2005; Chatterjee, 2000; Hinchy, 2014). They were highly esteemed as individuals with capabilities of administrating both worlds of men and women alike. However, with the waning of the Mughal Empire the social status of these individuals also started to fade pushing them into the margins and forcing them to choose begging, sex work, dance and folk entertainment (*bhand*) as their livelihood (Lal, 1994; Hambly, 1974; Kidwai, 1985).

Their status and position deteriorated further under the British colonial regimeⁱⁱ and they were pushed to the margins of the society. “In post-colonial Pakistan, these colonial practices of criminalization, exclusion and marginalization of gender diverse people were seamlessly folded into the state structures” (Protection of Rights Act, 2018). Transgender individuals in Pakistan mostly lacked social, material, cultural and political resources to secure better position in the society. The above all due to lack of education and jobs opportunities; they started to take occupations and activities that were considered taboo/distasteful by the rest of the society.

In addition to their status; as most desolate and miserable community of the society; they have faced all forms of violence starting from their families into society and state. Being vulnerable due to their gender identity and sexual orientation they have been exposed to all forms of violence, oppression and exploitation in particular direct form of violence (Human Rights Watch Report, 2020).

As based on the secondary resources and historical evidence, this article is aimed to explore that how the status of transgender community in Pakistan has started transforming in last decade?

It is argued that transgender community that has been facing exclusion; marginalization, stigmatization, and status of “other” in Pakistan, however since 2009, there has been a consistent shift in their status and condition as a community. This change is a result of the continuous struggle and activism of the transgender community augmented by the role of the state, judiciary, media, civil society and national/international organizations. From that point onwards; there have been many historical achievements on the credit of transgender community in Pakistan.

2. Literature Review and Significance of the Study

There is scarcity of literature that deals with the continuity and change of transgender community status in Pakistan and documents the political struggle of

ⁱⁱ After the creation of Pakistan, the state decided to continue with the same Penal Code introduced by British and named it Pakistan Penal Code of 1860. Pakistan Penal Code 1860 article 377 criminalize homosexuality.

this community. Much of the state of the art on transgender community focuses on the themes as described below;

2.1 “Medicalization”ⁱⁱⁱ of Transgender Community: Firstly, there is plethora of studies especially situational analysis reports carried out by NGOs, INGOs and various research institutes that explores and analyzes transgender community with special focus on diseases and disorders (for instance HIV/AIDS and STDs). All of these studies Altaf et.al, 2018; Baqi et.al, 1999; Collumbien et al. 2009; Haider and Bano, 2006; Khan et. al, 2008; Rehan et. al, 2009; Saleem et. al, 2011; Winjngaarden et. al, 2012), and assist these organizations and institutions to present an argument for intervention in the community. While exploring the various diseases, disorders and anomalies these entities pursue the politics of “medicalization” in order to gain their respective goals and agendas. This “medicalization” of transgender community consequently demands greater prevention and eradication of all those factors that are considered as responsible for spreading those.

2.2 History and Culture of Transgender Community: Secondly, there are numerous studies (Brown, 2005; Chaudhary et. al, 2014; Hossain, 2012; Mithani et. al, 2003; Mohyuddin, 2013; Shah, 1961; Sultana & Khan, 2012; Awan & Sheraz, 2011; Junejo, 1994) that explore and analyze the history and culture of transgender community in Pakistan. The aspects highlighted in these studies include language, rituals, history, social organization and religious practices of this community. Moreover, some studies from sociological and anthropological perspectives analyzed the historical and contemporary significance of transgender individuals in this part of the world. Some of these studies also shed light in the internal dynamics of the transgender community like the existence of *guru-chela*^{iv} relationship and intra-community conflicts. Some scholars have also studies the relationship of transgender individuals with mystical-spiritual traditions like Sufism in Pakistan.

2.3 Societal Presence and Status: Lastly, there are studies (Abbas et. al, 2014; Abdullah et. al, 2012; Ahmed & Umair, 2014; Alizai et. al, 2016; Jami & Kamal, 2015; Majeedullah, 2016; Naqvi & Mujtaba, 1997; Mughal et. al, 2017) that exclusively focus on transgender community’s presence and status in the society. There are various dimensions explored in these studies for instance issues and challenges faced by transgender individuals like marginalization, discrimination, exclusion, violence and stigmatization.

ⁱⁱⁱ The concept as introduced by Michel Foucault in his ground breaking work on sexuality. Foucault, Michel (1990) History of Sexuality. New York: Vintage Publications.

^{iv} Also known as Master-Disciple, Father-Son, Mother-Daughter, Teacher-Student relationship

Through the above mentioned literature review, it is evident that there is a gap within the existing literature related to exploring continuity and change in the status of transgender community in Pakistan. Almost all of the studies are related to different aspects of the transgender community, however hardly any of these studies has specifically addressed the contemporary conditions and status of the transgender community in Pakistan.

3. Research Question

The study aimed to explore the question that how the status (legal and social) of transgender community improved/transitioned in Pakistan since the last decade (2009-2019).

4. Research Methodology

This research primarily is qualitative in nature and based on secondary resources provided critical in-depth exploration of the events (of the last decade 2009-2019) that consequently resulted in change of transgender community's status and condition in Pakistan. This is a desk research, and has employed all the required and available resources to collect relevant data on the topic and carry out the present analysis. The resources employed in the research included books, reports, articles, research publications, newspapers and online resources.

5. Findings

5.1 Politics of Identity and Inclusion

The prominent features of transgender politics since 2009 are the notions of identity politics and inclusion in the society. Politics of identity also known as identity politics aimed to expose the hegemony and dominance of certain individuals within a community (Pilcher & Whelehan, 2014). It also demands that the political struggle should be based on individual identity rather someone else narratives. In case of transgender community, it is generally believed that their identity as conceived by the society and state is based on ideas of exclusion and otherness. Therefore, to end oppression there must be solidarity among individuals and rejection of all forms of differences.

Scholars like Faris Khan (2019, 2016, 2014, & 2011) and Claire Pamment (2019) have analyzed this aspect of transgender politics in detail. For Faris Khan, transgender community in Pakistan after 2009 embarked on a journey to gain more public acceptance. Interestingly, he argued that transgender community in Pakistan appropriated their demands and rights according to the context and situation. They wanted to remain relatively vague to governing bodies and broader publics (Khan, 2019). While they have pursued politics of gender ambiguity to gain short term gains, it failed to undermine long term stigma reduction. On the contrary for Pamment transgender activism and politics of

identity rely on pious performances legitimized by Sufi and Shi’a contexts more than liberal secular discourse of human rights.

The issue of identity politics and inclusion came to the fore when Lahore High Court gave a verdict in favor of girl to go for sex reassignment surgery in 2008 (“Girl allowed to undergo sex change surgery”, 2008). While the case was considered to be medical in nature as the plaintiff was described to be suffering from gender identity disorder, it paved the way for the future of transgender community politics. Since then, it revamped the endeavors of transgender community and their politics of identity and inclusion.

In addition to the above decision of Lahore High Court; the issue of inclusion of transgender community again rejuvenated in 2017, when for the first time in the history of Pakistan, transgender individuals were included in national census (Khan, 2017). Previously, transgender individuals were not counted under a separate category but were considered as part of disable individuals. The national census reveals that most of the transgender individuals are living in urban cities. While the inclusion of transgender community in census marks the beginning of progress and development, it also stirred controversy and backlash. Some sections of the transgender community severely criticized and rejected the results of the census claiming that the actual numbers of transgender individuals are far more than what is represented in the census. This undercounting could have the serious consequences for the community, as argued by them, and it would give state an excuse to allocate fewer resources for this community (“Don’t we count? Transgender”, 2017).

Moreover, in the same year, the state of Pakistan issued first passport to transgender individuals. This move has two significant features, one it recognized the right of transgender individual to travel globally with their perceived gender identity; secondly, it officially recognizes the symbol X for transgender individuals, a separate and neutral gender category other than men and women (“First passport issued”, 2017) for third gender. This decision has also impacted positively the global outlook of the state. The state of Pakistan was lauded for its progressive stance towards the transgender community in Pakistan. While much of the politics is pursued by transgender women or third gender individuals, there is lack of representation or visibility of other gender/sexual minorities in this struggle especially of transgender men and intersex individuals (Azhar, 2017).

5.2 Politics of Rights and Empowerment

In 2009, Supreme Court of Pakistan laid the foundation of granting rights to transgender community in Pakistan (Rehman, 2017). The Supreme Court of Pakistan in its verdict ensured the provision of basic rights to transgender community in Pakistan. In an attempt to protect transgender community from

discrimination and violence, the Supreme Court took a decision that fundamental human rights of transgender individuals must be ensured by the state.

Following this decision, once again in 2011, the Supreme Court of Pakistan directed all state institutions to protect the rights of transgender individuals as per the constitution of Pakistan. In addition to that it also directed National Database and Regulatory Authority (NADRA) to speed up the process of issuing computerized national identity cards (CNICs) to these individuals (Zaman, 2012). Moreover, the Election commission of Pakistan was being given the directives to not only collect data of transgender individuals in Pakistan but also registered them as voters (Bezhan & Azami, 2011).

Transgender community was given the right of vote, right of inheritance; right of education; right of employment and health. However, the most outstanding development ensued in 2018, when the parliament of Pakistan unanimously approved transgender (Protection of Rights) Persons Act 2018. This law is considered as most progressive law in history of Pakistan and also places Pakistan among progressive nations in the world (Rimmel, 2019). Transgender Act 2018, sets a new direction for the community of transgender persons in Pakistan.

The strength of this law is not only the content enshrined in it, but also the whole process of drafting this new law. During this process of drafting the law, transgender individuals were taken on board and their insights were included at every stage of this process. In fact, they have been given the opportunity to lead the whole process of legislation of this law (Abbasi, 2017). The active involvement of transgender individuals in this process considered revolutionary for two reasons; firstly, it gave a new hope and encouragement to transgender individuals that they can lead their own struggle and secondly, it also built a new trust between state and this community forging new bonds of alliance.

Transgender Act proved to be instrumental in initiating the change in the status of transgender community. It empowered the individuals encouraging them to participate more actively in different fields of life. From education sector to health, and from politics to media, many transgender individuals started to come forward. Since 2018, there have been many instances of transgender individuals becoming more active and visible in all these mentioned fields. Breaking the stereotypes and stigmas attached with them, they have not only set an example for their community but for the rest of the society.

5.3 Politics of Representation and Recognition

The year 2018, turned out to be extremely successful year for transgender community in Pakistan. With the promulgation of Transgender Act, it paved a new way for the transgender individuals to continue their activism and struggle. During the same year another important development took place. In general

elections 2018, the transgender community across Pakistan decided to contest general elections for the very first time in the history of Pakistan (Barker, 2018). However, a few transgender individuals have also contested in the previous general elections of 2013. From the all over Pakistan 13 transgender individuals came forward to join the “mainstream” political space in Pakistan by contesting in general election (2018). All Pakistan Transgender Election Network (APEN) has been established to oversee and facilitate the whole process of elections.

Visibility and political participation of transgender individuals in Pakistan, especially in general elections, also impacted the state and its institutions. The Ministry of Human rights in Pakistan took the various steps in this regard. The ministry established a committee to oversee the implementation of Transgender Act of 2018, and officially hired a transgender individual as transgender rights expert to serve in the said committee (“Shireen Mazari hires first transgender”, 2019). Apart from these initiatives taken by the Ministry of Human Rights, several sensitization and awareness sessions/workshops were arranged for the state departments including police department, NADRA (National Database and Regulatory Authority) and Ministry of health.

In February 2020, the state of Pakistan made international headlines, when for the first time in the history of the world; a legally recognized transgender individual was included in the state’s official delegation at the UN convention on CEDAW (Convention on the Elimination of all forms of Discrimination against women) (“In a first”, 2020) Aisha Mughal successfully represented her transgender community in the official delegation and earned national, regional and global fame. This inclusion by the state of Pakistan has been lauded all over the world and set a new precedent for the rest of the world.

This global fame and recognition of transgender individuals of Pakistan continued. In the same year 2020, Nayab Ali, a transgender activist won international Gala award for the category of activism and human rights (“Pakistani Transgender Activist”, 2020). She has been active in the community and worked tirelessly for their benefit. Being victim of violence (acid attack survivor) she aimed to eradicate discrimination and all forms of violence against transgender community in Pakistan. As a trans-rights activist she is at the forefront of the struggle and activism since many years.

6. Discussion and Analysis

6.1 Liberal Political Philosophy and Democratic Ideology

The struggle of transgender community (mostly legal) remained within the bounds of democratic principles and based on liberal political philosophy that requires the actors to engage and demand their basic rights from the state. Within liberal political struggle much of the efforts are directed towards the state as modern political institution to safeguard the basic rights of individuals. Reviewing

the struggle of transgender community in Pakistan: it is significantly evident that they have pursued liberal political ideals. They have engaged with the state and its apparatuses to ensure their rights, safeguard their freedom and achieve equal status as citizens.

The status of transgender community got improved due to their struggle. Over the period of time; they have developed consciousness about the fate of their community. Their struggle, as evident through this research, is premised on values of liberalism. Equality, freedom, justice and rule of law can only be ensured if the state treats every individual as its citizen. Similarly, the democratic political setup in Pakistan has been able to formulate new laws and policies for the unprivileged and marginalized sections of the society.

Gender based activism (related to women and transgender individuals) is considered within the context of liberal and progressive framework. As a matter of fact, the liberal and democratic political paradigm provides the basis of transgender rights struggle in Pakistan. As evident through this research, the community appropriates these frameworks to further their struggle for equality, freedom and individual rights.

6.2 Role of Judiciary and Legislation

Another prominent aspect of this change/transition is the role played by the judiciary (Ali, 2016). Undoubtedly, the entire focus for the rights of transgender community originated from the active role of judiciary in Pakistan. Some of the decisions made by the Courts have laid the foundation of transgender activism. Although these efforts were part of rectifying and reforming the status of transgender community through legal means, it augmented other aspects like economic, political and social rights too.

Evidently, the struggle for the rights of transgender community in Pakistan has been started by the judiciary and later on supported by the respective governments. Apart from some landmark judgments and decisions passed by the Courts, they have also pushed the state to be more active towards this community. In various instances, the Courts have asked different bodies of the state like election commission of Pakistan, NADRA, Health department and Census department to engage with transgender community. Apart from the role played by the judiciary, the legislative structure of the state has also been able to contribute significantly especially by promulgating the Transgender Act 2018.

6.3 State and its Institutions

Due to the active role of judiciary for transgender community in Pakistan, the state and its other institutions started to play their part as well (Gichki, 2020). As mentioned the above the activism and struggle of transgender individuals were

directed towards the state to reform institutions and constitute policies for the wellbeing of the community.

Since 2009, the state of Pakistan has also started actively pursuing the politics of inclusion. Every respective government has tried to introduce reforms for gender minority individuals. As discussed the above the state has not been able to introduce legislation like transgender act 2018, but also introduced reforms in its institutions. Prior to these affirmative policies the transgender community was either “invisible” or completely “neglected” by the state. Moreover, they were not considered as equal citizens and there was hardly any specific policy for them.

The state started to recognize the existence of transgender community in Pakistan when they were included in the census of 2017^v. Although the data of the census was not only challenged but also criticized by the transgender community for under-representing their actual population, it nevertheless was considered a significant step taken by the state. Though less documented figure of the community can be ratified it started a debate that how state should treat the community and the individuals.

Special workshops, awareness sessions and sensitization programs were arranged since last few years. Active members and leaders of transgender community were taken on board to conduct these sessions and workshops within institutions of the state. As demonstrated in this research, transgender rights activists from all over the country were included in this process. Interestingly, the transgender individuals were not only included in this process but also given the leading roles. They have been trusted as individuals who can envision their future in the society and were given the task to work with the state.

6.4 National and International Organizations and Civil Society

Apart from judiciary and state, civil society, non-profit national organizations and International non-governmental organizations have also contributed in this struggle of transgender community for their rights and status. From advocacy to awareness and from lobbying for rights to fight against violence and discrimination, these organizations have worked tirelessly to help the transgender individuals in achieving their equal level in the society.

As demonstrated in this research many organizations (non-profit) national and international have been working in Pakistan for the rights of transgender community. Along with these organizations; there are members of civil society (“Transgender community needs more social, legal space”, 2018) who always voice for the marginalized sections of society especially violence and

^v Initially, the transgender persons were no included in the census. A person from transgender community filed a petition in Lahore High Court, the court asked the census organization to include transgender community in the 2017 census.

discrimination faced by transgender individuals in Pakistan. They have especially voiced their concerns over the issue of violence experienced by transgender community in the different parts of Pakistan (“Raising their voices”, 2016). International Organizations like UN and its subsidiaries are not only vocal but also active for the rights of transgender community in Pakistan. In the past these organizations have organized special events to voice the concerns for this community in Pakistan (“United Nations in Pakistan organizes event on transgender rights”, 2019).

Interestingly more and more transgender individuals after 2009 are championing for the rights of their fellow individuals throughout Pakistan. There are now numerous new non-governmental organizations working on transgender individuals in Pakistan.^{vi} Most of these NGOs are also administratively run by transgender individuals. These NGOs have broached multiple issues and problems of transgender individuals including education, employment, health and political status.

6.5 Role of Media

Media, as a strong pillar of state, has played significant role in the development of the society (Berger, 2012). While media in Pakistan revolutionized after 2000, it is still progressing and growing. In addition to electronic media the advent of social media has drastically changed the dynamics of media culture and industry. It has provided a new space for the society to be more actively engaged in this information era (Sahlin, 2015).

Therefore, the role of media especially social media in the present times to highlight the issues and problems of individuals that is quite evident. The dominant discourse of transgender community in Pakistan as generated by the mainstream media is of vulnerability and exploitation only. However, the portrayal of transgender individuals started to change greatly in the media industry after 2009. The main stream media became more sensitive and conscious of the status and condition of transgender community. As a result, the media industry mainly started to “represent the activism against transgender discrimination that disapproves the inequitable socio-economic and moral practices and emphasizes the basic equal rights for the transgender community” (Abbas, 2019).

^{vi} Some of the NGOs are also administrated and run by *khwaja siras* like Wajood society in Rawalpindi. They publish reports on periodic basis and on diverse issues. Some NGOs and INGOs working on transgender community in Pakistan includes Aurat foundation, USAID, Wajood society, Blue Veins, FDI, Naz foundation, Naz Male Health Alliance, Gender Interactive Alliance Pakistan, Pakistan Transgender Empowerment, *Khwaja sira* society Pakistan, *Itehad bara-e-haqooq-e-khwaja sira* Pakistan, Human rights watch, Amnesty International.

As a result of this inclusion, many transgender started to join media and entertainment industry. Marvia Malik (Hamdani, 2018) became the first transgender anchor while Kami Sid emerged as a supermodel. Through their presence on the media, they have also started awareness campaigns to fight against the different stereotypes about them in the society for instance transphobia or violence against transgender individuals (“How Pakistan’s first transgender model”, 2017)

Interestingly, the advent of social media has revolutionized many aspects of our social world. Social media provides a much safer space for transgender individuals to highlight their problems and build moral support for their cause. Over the period of time more and more transgender individuals are using these social platforms to further their cause. The “*trans rise in the digital age*” (2019), demonstrates the potential of social media space in contemporary times. While the physical-social world is dominated by heteronormative (male-female association) and patriarchal (male dominated) ideologies, the cyber space/social media can provide open and free space for other gender variant individuals to voice their concerns. For transgender individuals, the cyberspace and online mediums are highly accessible and appropriate mediums to educate, aware and sensitize the society towards transgender community.

7. Conclusion

As demonstrated in this article that transgender community has come a long way in their struggle for fundamental human rights in Pakistan. While responding to multiple issues and problems; they have pursued their journey through legal and political means. Though they have been able to achieve much in the past decade, they are unable to ignite a mass social movement for the rights of marginalized communities in Pakistan.

While transgender community, as reflected in this article, has been able to achieve to a great extent what they have demanded for, the struggle is still continued. They encounter social discrimination, exploitation, rejection and violence on daily basis. It is important to highlight that their struggle is testimony to their strength as a community, they also have strong difference and conflicts among them. These intra community conflicts (Aurat Foundation, 2016) are not only frequent but also extreme in their nature and scope. Some of these conflicts have impeded the formation of any strong, cohesive, unified collective social movement for the rights of transgender community in Pakistan.

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