

Self-perception and Gender Change in Pakistan. Who Else?

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Abstract

The constitution of Pakistan, an Islamic democracy, upholds the legal rights of its citizens. However, globalization and liberalization have led the nation to recognize the presence of the third gender, also known as transgender. According to the Transgender (Protection of Rights) Act 2018, Pakistani people are permitted to change their gender from male to female, female to male, or male/female to transgender. The person's perspective of themselves may play a role in the choice to change gender. By all rights, Pakistan is not the first country to use self-perception as a method for decision-making in order to effect gender change. Therefore, this study is conducted to investigate which other nations are using self-perception as a method for gender change. The study is conducted using quantitative content analysis. The contents of transgender-related acts enacted by numerous nations, including Pakistan will be analyzed using manifest analysis. It is anticipated that the study will provide some insight into how self-perception for gender change is being implemented in Pakistan. Recommendations for future studies are also suggested.

Keywords: transgender, self-perception, gender change, policy studies, policy tool, policy intervention

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■ 1.0 INTRODUCTION

Sex and gender are two different words that carry different meanings but are interchangeable. Sex refers to the biologically established features assigned at birth, which are male and female (McHugh et al., 2018). There are many cases that the assignment could not be made promptly at birth due to the ambiguous biological features, and those who face this uncertain assignment of biological features are called “*khunsa*”. *Khunsa*, or intersex, is a person with mixture of male and female genital features or congenital ambiguities National Assembly Secretariat (2018). Typically, medical examinations are conducted later to confirm the sex of these individuals, usually when the physical and psychological characteristics become more noticeable. Gender, on the other hand, is a socially built trait of people (Magar, 2015). Schiappa (2022), in his study, mentioned four dominant types of gender, namely the common, masculine, feminine, and neuter.

Those who are challenged by confusing biological features assigned at birth are known as transgender people. The transgender person believes that their gender identity, expression, or behavior does not match the sex assigned at birth (Lee et al., 2019). The existence of transgender people endures massive rejection by societies in many countries. Many social problems are said to be triggered among transgender people, which make their lives more complex and difficult (Redcay et al., 2020). Concerned about the situation, international activists fight for the rights of the transgender person. These activists ask for the transgender person's welfare, which is claimed under the umbrella of gender equality. As a result, many countries have established national policies and interventions including Pakistan.

By right, the implementation of this tool is not the first in the world. It is also implemented by many countries, and they implement it earlier than Pakistan. Therefore, this article tries to investigate which countries implement self-perception as a policy intervention for changing gender and how they implement it. The following section will present the issues faced by transgender communities in Pakistan. Followed with the policies and their tools that have been implemented by the government of Pakistan specifically on the legal instrument, and the method used for changing gender. Section four will focus on the research methodology and section five is about the research findings and discussion. Finally, section six will bring the writing to close.

■ 2.0 TRANSGENDERS IN PAKISTAN

Over the decades, thousands of Pakistanis have been disappointed about their gender, and people perceived that their

life would be better if they appeared contrarily (Yasin,2020). Some of them decided to undergo genital surgeries to change their gender. Before the year 2021, there were three categories of gender, namely: male eunuch, female eunuch, and intersex. A male eunuch is a female that changes her gender to a male. A female eunuch, on the other hand is a male who changes his gender to a female. Intersex, or “khunsa mushkil”, is a person with ambiguous biological features whose the genital features could not be confirmed at birth. According to the U.S. National Library of Medicine (2019), intersex can be divided into four categories. They are individuals that have (1) the chromosomes and ovaries of a female but the outside genitals of a male; (2) the chromosomes of a man, but his genitals are incompletely formed, ambiguous, or clearly female; (3) both “ovarian” and “testicular” tissues; and (4) an extra chromosome, which causes a complex and undermined intersex.

Table 1 shows the Pakistanis’ transgender data according to these categories of gender. This data was provided by the national database registration authority before the enactment of the Transgender Act 2018. In 2017, the number of intersex communities, or “khunsa”, was only 136 compared to the total number of male and female eunuch was 1,686. It was about 12 times higher than the intersex category. Three years later, the number of female and male eunuch increased by almost 50 percent. Since the census programs were not compulsory for the public, the exact number of transgender people in Pakistan could be higher than what has been recorded.

Table 1. Transgender Community in Pakistan (National Data Base Regulatory, 2017-2020)

Gender (other than male and female)	Year	
	2017	2020
Male Eunuch	1117	1,709
Female Eunuch	569	766
Intersex (<i>khunsa mushkil</i>)	136	170
Total	1882	2645

The statistic shown in Table 1, specifically on the increase number of transgender registered before enactment of act Provided that 1117 male Eunuch are registered based on orders of the supreme court as a legal guidance and support of law. This follows the female Eunuch registration during 2017 with 569 provided with the change of 766 incorporation of intersex of “khunsa mushkil”. The same registration of inter-sex during 136 number with 170 number of registrations against the year 2020. The provided factors of the 2017 registration unfold the overall progress for transgender communities under National Data Base Regulatory framework 2017. In 2020 Male Eunuch were recorded 1709. Same is the case of Female Eunuch which were 766 and Intersex (*khunsa mushkil*) recorded as 170.

Table 2 provides the data for gender change application submitted by Nadra in Senate of Pakistan in 2021. The record shows male to female transitions, female to male, male to transgender, female to transgender, transgender to male and transgender to female. Overall, 28723 people have change their genders.

Table 2. Statistical Data for Gender Change Applications (National Data Base Regulatory, 2021)

No	Category of Gender Change	Frequency
1	Male to female	16,530
2	Female to male	12,154
3	Male to transgender	9
4	Female to transgender	0
5	Transgender to male	21
6	Transgender to female	9
Total		28,723

Table 2 shows statistics on gender change applications based on self-perceived gender identity. After the enactment of the Transgender Act in 2018, a high volume of gender change applications was processed, from male to female (16,530) and female to male (12,154). Similarly, from male to transgender, only 9 people registered themselves in NADRA. None of the people identified as female or transgender. Transgender to male conversion is 21; transgender to female conversion is 9. 28,723 gender change cases supposedly trigger the attention of the government of Pakistan. As in the case of many comparable countries, this is because life as a transgender person in Pakistan is not easy (Transgender Welfare Policy, 2018). Despite the dramatic progress of the transgender movement in the last decade, transgender people continue to face blatant discrimination, high levels of violence, and poor health outcomes (Sullivan et al., 2019). It is true that some transgender people in Pakistan are successful and well-known, such as Reem Shareef (a transgender rights expert at the Ministry of Human Rights) and Nayab Ali (a transgender activist and social scientist). However, their percentage is relatively low.

This is because of discrimination by the general community and even by close family members towards the transgender community. Transgender people usually experience frightening levels of physical violence. As compared to non-transgenders, transgenders were discriminated against about two times more (Fatima et al., 2022). In referring to Sapareto (2018), the transgender communities are also bullied about one and a half times more likely than the non-

transgenders. They are nearly always the targets of covert discrimination, which can range from uncomfortable or disapproving glances to intrusive inquiries about their body parts. It is so challenging for them to obtain high-quality education, jobs, and healthcare services. To earn some money for food and living, many of them get involved in sex-related work or criminal activity (Carpenter et al., 2020). As a result, many of them live in extreme poverty, are homeless, have poor health, and contribute to high rates of suicide attempts (Blake, 2018; Rosich, 2020).

■ 3.0 TRANSGENDER WELFARE POLICY AND INTERVENTIONS

By right, no matter how they perceive their gender, transgender communities are human. They must be respected, treated, and given rights like other humans (Badgett et al., 2019). Protecting this community is a must, as long as it is not violating the concept of freedom in Islam (Shawkat, 2016). In contextualizing the situation in Pakistan, which is a Muslim country, relevant government interventions should be provided to ensure the number of individuals trapped in the transgender world can be minimized and controlled. Any kind of support that may influence people to become transgender must be avoided, and prevention and corrective measures should be provided.

The distressing condition of transgender people lives in Pakistan, as well as the movement of proactive activists that fight for the rights of the transgender communities, make them become a priority group for social protection policymakers. The situation opened a ‘window of opportunity’ for the transgenders’ welfare, which is claimed under the umbrella of gender equality. The main intention of having a documented national policy is to improve transgender people’s quality of life (Figure 1). However, a policy document is not a magic book. It could not automatically achieve the policy’s goal, unless the government implements policy interventions. For the purpose of this writing, the interventions to be discussed are the Transgender Persons (Protection of Rights) Act 2018 and self-perceived identity.

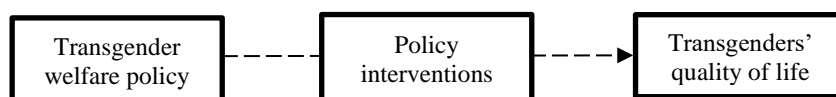


Figure 1: Policy Interventions are Required to Connect the Transgender Welfare Policy Document to its Ultimate Goal; The Quality of Life of Transgender People

3.1 Transgender Welfare Policy 2018

The Transgender Welfare Policy was developed by the Punjab Social Protection Authority in 2018. The ultimate goal of the policy is to provide guiding principles and priority areas for implementing various future programs for welfare and protection of the rights of transgender people (Transgender Welfare Policy, 2018).

In achieving this goal, they identified the factors that contribute to the social vulnerability of transgender people and potential policy interventions to address their difficulties (Transgender Welfare Policy, 2018). It was based on a participatory and evidence-informed policymaking process. The process started with international benchmarking. It was to identify international practices in the rights and welfare of transgender communities, especially in developing countries (Transgender Welfare Policy, 2018). The policy statements and strategies were then contextualized based on local situations.

Key stakeholders representing the quadruple helix were involved in the process through consultation activities. The details of the stakeholders have remained unrevealed. This is probably to protect their data for their safety, especially because the policy is a bit controversial. The involvement of suitable policy actors is crucial in the policymaking process because their views on the policy issue could influence the relevant policy subsystem. However, the policymaking process is complex. Many times, stakeholders have their own interests, and the timeline given to develop a policy is short. In the end, it is still the responsibility of policymakers to finalize the policy.

3.2 Transgender Persons (Protection of Rights) Act 2018

The main policy intervention that plays a significant role as the ‘master key’ for gender recognition is the Transgender Persons (Protection of Rights) Act 2018. The Transgender Act was drafted by the Senate’s Human Rights Committee and tabled before the House by Senator Rubina Khalid and Senator Karim Khawaja (Hamza et al., 2021). The bill was passed by the Upper House with an absolute majority and then moved towards the national assembly for a vote (Hamza et al., 2021). The main intention of the Transgender Act is to provide equal rights to transgender people and to safeguard their rights through legal recognition. It is in line with the policy that the country has.

In general, the Transgender Act contains seven chapters. The first chapter explains the operational definition used in the document. The second chapter highlights the rights of transgender people to change their gender based on their self-perception and to update their name and gender identity in their CNIC, CRC, driving

licence, and passport. The third chapter focuses on the prohibition against harassment and discrimination in obtaining quality education, employment, healthcare services, properties, and public facilities. Chapter four pronounces the role of government in providing transgender people with full and effective participation in society. Chapter five highlights their rights to inherit. Chapter six pronounces the enforcement mechanism. Chapter seven highlights that the Transgender Act has an overriding effect on any other law. If any difficulty arises in giving effect to the provisions of this Act, the government may make such an order or give such directions, by order published in the Official Gazette, to make such provisions that are not inconsistent with the provisions of this Act.

3.3 Self-perceived Identity

Among these chapters, the second is the most controversial and debated. The chapter provides legal protection to individuals who desire to change their gender through the self-declaration process. While many individuals enjoy this legal right, it contradicts the Supreme Court of Pakistan order of 2012 (Redding, 2019). The Supreme Court ordered that no person be issued a transgender identity without a chromosome test. It means a medical-based assessment method is required.

From a biological perspective, a chromosome test would confirm a person is female if the chromosome is XX, while a male has the XY chromosome (Iftikhar et al., 2021). However, there are people who have Disorders of Sexual Development (DSD). DSD is a mismatch between a child's chromosomes, or genetic material, and the appearance of the child's genitals (Farhat et al., 2020). They are intersex or *khunsa*. A child may show their DSD in infancy, childhood, or adolescence. While DSDs are rare, they certainly have a significant impact on individuals and their families' quality of life due to their sensitive nature and stigma surrounding gender identity and gender roles (Ravendran and Deans, 2019). By right, in relation to the Supreme Court order, only DSD persons can be issued a transgender identity, not those with normal chromosome tests.

As presented in Figure 2, the statement of transgender identity recognition is clearly stated in Section 3(1) of Chapter II of the Transgender Act. Self-perception is understood as the internal and individual way in which gender is perceived by individuals, which can correspond or not to the gender assigned at birth, including the personal experience of the body (Rucovsky & Russell, 2019). It also includes other expressions of gender, such as dress, ways of speaking, and gestures (Zimman & Hall, 2009).

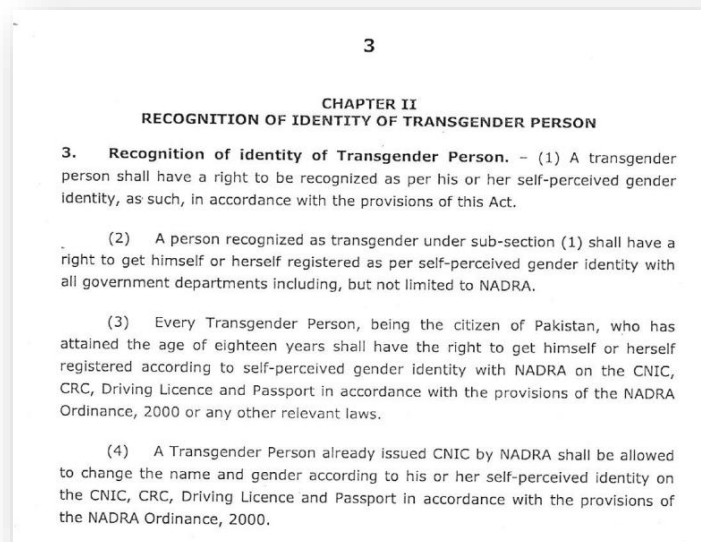


Figure 2. Detail Statements of Transgender Person Identity Recognition in The Transgender Act.

Referring to Figure 2, any individual, including biologically perfect males or females, can get himself or herself recognized as a transgender person. No medical procedure is required in this process. It is entirely one's choice. Once they make their decision, they are allowed to apply for the modification of gender information on their identity document or any other documents provided by all government departments. These include their driving license and passport. The main intention is to make the information consistent with their new gender identity.

■ 4.0 METHODOLOGY

This study is conducted using a quantitative content analysis approach, which will help the authors answer the question of how many countries implement self-perception for gender change purposes. The samples for the study are limited to countries that explicitly mention the use of self-perception in their legal document. The keywords used are limited to “*self-perception*” or “*self-determination*” or “*self-identification*”. According to Bengtsson (2016), no sample size is specified for a content analysis study. The data collected is analyzed using manifest analysis.

■ 5.0 FINDINGS AND DISCUSSIONS

This study is conducted from January to March 2023. Within three months, the authors discovered 24 legal documents published by 24 countries that implement “*self-perception*”, “*self-determination*”, or “*self-identification*” for gender change. Table 3 lists the countries and the titles of the legal documents.

Table 3. The Countries that Implement Self-Perception as The Method Used for Gender Change Process

No	Country	Title of Legal Document	Method Used for Gender Change Process	Additional requirement (if any)
1	Argentina	Gender Identity Law (The Ley de Género Gender Law) 2012	Self-perception	
2	Belgium	Transgender Regime Reform Act 2017	Self-perception	Statutory declaration in front of civil officer
3	Bolivia	Gender Identity Law No. 807	Self-perception	
4	Brazil	Constitutional court judgement	Self-perception	
5	Canada	BILL C-16 2016	Self-perception	
6	Chile	The Gender Identity Law (21,120) 2018	Self-perception	A request to the Civil Registry and Identification Service above 18 years
7	Colombia	Decree 1227 on June 4, 2015	Self-perception	
8	Costa Rica	Law of Recognition of Rights and Gender Identity Equality (before the law) 2018	Self-perception	
9	Denmark	The Danish Gender Recognition Law 2014	Self-determination	
10	Ecuador	Civil Registration Act 2016	Self-perception	
11	Iceland	Major Gender Identity Law 2019	Self-determination	
12	India	Transgender Persons (Protection of Rights) 2019	Self-perception	Hormone therapies and sex reassigned surgeries
13	Ireland	Gender Recognition Act 2015	Self-perception	Below the age of 18 medical practitioners' certificate
14	Luxembourg	Law of 10 August 2018	Self-perception	
15	Malta	Gender Expression and Sex Characteristics Act of 2015.	Self-perception	
16	Mexico	Gender Identity Law	Self-identification	
17	Nepal	Sunil Babu Pant and Others v. Nepal Government (case law of 2007)	Self-identification	
18	New Zealand	Births, Deaths, Marriages, and Relationships Registration Act 2021	Self-determination	
19	Norway	Gender Recognition Act 2016	Self-perception	Parental consent for minors
20	Pakistan	Transgender Persons (Protection of Rights) 2018	Self-perception	
21	Portugal	Gender Identity Law	Self-perception	Psychological opinion for minors 16 and 17 years
22	Thailand	Thailand Gender Equality Act 2015	Self determination	
23	United Kingdom	Gender Recognition Act 2004	Self-perception	Gender dysphoria certificate
24	Uruguay	Ley Integral de Persona Trans	Self-identification	

	(Integral gender identity law 2019)		
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In referring to Table 3, more than 70 percent of the countries use the word “*self-perception*”. They are Argentina, Belgium, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Ecuador, India, Ireland, Luxembourg, Malta, Norway, Pakistan, Portugal, and United Kingdom. The other 16.7 percent (Denmark, Iceland, New Zealand, and Thailand) use the word “*self-determination*”, and 12.5 percent (Mexico, Nepal, and Uruguay) use “*self-identification*”. Based on the definition provided by the documents, these three words in general carry a similar meaning.

The majority (70.8 percent) of countries are only using self-perception as the method for gender change, while the remaining countries have additional requirements. For instance, Belgium requires the applicants to self-perceive and obtain a statutory declaration in front of a civil officer. India, on the other hand, requires the applicants to have hormone therapies and sex reassignment surgeries before they change their gender identity, and the United Kingdom requires the applicants to show their gender dysphoria certificate during the application process. For the applicants that are classified as under age, there are two countries that highlight additional requirements for this category of applicants. In particular, Norway requires minor applicants to get their parental consent before changing their gender identity. Portugal, on the other hand, requires the minors who 16 or 17 years old to get a psychological opinion to support their application, besides self-perception. Based on the above, the additional requirements are involved either medical interventions or third-party opinions. The latter is the predominant additional requirement.

■ 6.0 CONCLUSION

Pakistan is not the only country that permits its citizens to change their gender. The endorsement of their Transgender Act and the simple self-perception as a method for gender change application are like a savior to the transgender communities in the country. However, as most societies in Pakistan reject the existence of transgender communities, the implementation of the Transgender Act is also getting the same treatment. This is probably because Pakistan is a Muslim country. As a country that implements an Islamic constitution, the endorsement of these policy interventions is contrary to their Islamic constitution. Besides that, the number of transgender people registered with NADRA has increased from time to time. The applicants were not only *khunsas*, but also ‘normal’ people. For them, it is their right to change their gender using the endorsed policy interventions. Furthermore, the method used for changing their gender is through the applicants’ “*self-perception*”. Many scholars argued that the implementation of this method is too loose, considering that the decision made is open to bias. Therefore, it is reasonable and timely for Pakistan to conduct scientific studies on the implementation of self-perception for gender change. This study confirmed that having additional requirements, rather than self-perception, would be a prospect as a benchmark that would compel contextualization. This is done to ensure that the policy intervention is consistent, relevant, efficient, effective, impactful, and long-term. In fact, the current state of self-perception implementation is unknown and questionable. Further scientific research is expected to provide answers to the unanswered issues and uncertainty in regards to transgender people.

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