

**[AS INTRODUCED IN THE SENATE]**

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**BILL**

*to provide for 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 Persons (Protection of Rights) Act, 2016;

(b) "Government" means the Government of Pakistan;

(c) "Parliament" means the National Assembly of Pakistan and the Senate of Pakistan as defined by the Constitution;

(d) "Rules" means the rules made under this Act; and

(e) "Transgender person" means a person who is,-

(i) neither wholly female nor wholly male; or

(ii) a combination of female or 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.

**CHAPTER II  
PROHIBITION OF CERTAIN ACTS**

**3. Prohibition against discrimination.-** No person shall discriminate against a transgender person on any of the following grounds, namely:-

- (a) the denial of, or discontinuation of, or unfair treatment in, educational establishments and services thereof;
- (b) the unfair treatment in, or in relation to, employment or occupation;
- (c) the denial of, or termination from, employment or occupation;
- (d) the denial of, or discontinuation of, or unfair treatment in, healthcare services;
- (e) the denial of or, discontinuation of, or unfair treatment with regard to, access to, or provision or enjoyment or use of any goods, accommodation, service, facility, benefit, privilege or opportunity dedicated to the use of the general public or customarily available to the public;
- (f) the denial of, or discontinuation of, or unfair treatment with regard to the right of movement;
- (g) the denial of or discontinuation of, or unfair treatment with regard to the right to reside, purchase, rent, or otherwise occupy any property;
- (h) the denial or discontinuation of, or unfair treatment in, the opportunity to stand for or hold public or private office; or
- (i) the denial of access to, removal from, or unfair treatment in, Government or private establishment in whose care or custody a transgender person may be.

**CHAPTER III  
RECOGNITION OF IDENTITY OF TRANSGENDER PERSONS**

**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.

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

**5. Application for certificate of identity.-** A transgender person may make an application to the District Magistrate for issuing 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 or guardian of such child.

**6. District Screening Committee.-** (1) On the receipt of an application under section 5, the District Magistrate shall refer such application to the District Screening Committee to be constituted by the Government for the purpose of recognition of transgender persons.

(2) The District Screening Committee referred to in sub-section (1) shall comprise,-

- (a) the Chief Medical Officer;
- (b) District Social Welfare Officer;
- (c) a Psychologist or Psychiatrist;
- (d) a representative of transgender community; and
- (e) an officer of the Government to be nominated by that Government.

**7. Issue of certificate of identity.-** (1) The District Magistrate shall issue to the applicant under section 5 a certificate of identity as transgender person on the basis of the recommendations made by the District Screening Committee in such form and manner, within such time, as may be prescribed, indicating the gender of such person as transgender.

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

(3) 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.

**8. Change in gender.-** (1) After the issue 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 District Magistrate for revised certificate.

(2) The District Magistrate shall, on receipt of an application under sub-section (1), shall refer such application to the District Screening Committee and on the recommendation made by the District Screening Committee, issue a certificate indicating change in gender in such form and manner and within such time, as may be prescribed.

(3) The person who has been issued revised certificate shall be entitled to change the first name in the birth certificate and all other official documents relating to the identity of such person:

Provided that such change in gender and the issue of revised certificate under sub-section (2) shall not affect the rights and entitlements of such person under this Act.

#### **CHAPTER IV WELFARE MEASURES BY GOVERNMENT**

**9. Obligation of the Government.-** (1) The Government shall take steps to secure full and effective participation of transgender persons and their inclusion in society.

(2) The Government shall take such measures as may be necessary to protect the rights and interests of the transgender persons, and facilitate their access to welfare schemes framed by that Government.

(3) The Government shall formulate welfare schemes and programmes which are transgender sensitive, non-stigmatising and non-discriminatory.

(4) The appropriate Government shall take steps for the rescue, protection and rehabilitation of transgender persons to address the needs of such persons.

(5) The Government shall take appropriate measures to promote and protect the rights of transgender persons to participate in cultural and recreational activities.

#### **CHAPTER V OBLIGATION OF ESTABLISHMENTS AND OTHERPERSON**

**10. Non discrimination in employment.-** No establishment shall discriminate against any transgender person in any matter relating to employment including, but not limited to, recruitment, promotion and other related issues.

**11. Obligations of establishments.-** Every establishment shall ensure compliance with the provisions of this Act and provide such facilities to the transgender person as may be prescribed.

**12. Grievance redressal mechanism.-** Every establishment consisting of one hundred or more persons shall designate a person to be a complaint officer to deal with the complaints relating to violation of the provisions of this Act.

**13. Right of residence.-** (1) No transgender person shall be separated from parents or immediate family on the ground of being a transgender, except on an order of a competent court, in the interest of such person.

(2) Every transgender person shall have,-

(a) a right to reside in the house-hold where parent or immediate family members reside;

(b) a right not to be excluded from such house-hold or any part thereof; and

(c) a right to enjoy and use the facilities of such house-hold in a non-discriminatory manner.

(3) Where any parent or a member of his immediate family is unable to take care of a transgender, the competent court shall by an order direct such person to be placed in rehabilitation centre.

## CHAPTER VI

### EDUCATION, SOCIAL SECURITY AND HEALTH OF TRANSGENDER PERSON

**14. Obligation of educational institutions to provide inclusive education to transgender persons.-** All educational institutions funded or recognized by the Government shall provide inclusive education and opportunities for sports, recreation and leisure activities without discrimination on an equal basis with others.

**15. Vocational training and self employment.-** The Government shall formulate welfare schemes and programmes to facilitate and support livelihood for transgender persons including their vocational training and self-employment.

**16. Health care facilities.-** The Government shall take the following measures in relation to the transgender persons, namely:-

(a) to provide for medical care facility including sex reassignment surgery and hormonal therapy;

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- (b) bring out a Health Manual related to sex reassignment surgery in accordance with the World Profession Association for Transgender Health guidelines;
- (c) review of medical curriculum and research for doctors to address their specific health issues;
- (d) to facilitate access to the transgender persons in the hospitals and other healthcare institutions and centers; and
- (e) provision for coverage of medical expenses by a comprehensive insurance scheme for transgender persons.

### **CHAPTER VII OFFENCES AND PENALTIES**

#### **17. Offences and penalties.-** Whoever,-

- (a) compels or entices a transgender person to indulge in the act of begging or other similar forms of forced or bonded labor other than any compulsory service for public purposes imposed by Government;
- (b) denies a transgender person the right of passage to a public place or obstructs such person from using or having access to a public place to which other members have access to or a right to use;
- (c) forces or causes a transgender person to leave house-hold, village or other place of residence;
- (d) harms or injures or endangers the life, safety, health, or well-being, whether mental or physical, of a transgender person or tends to do acts including causing physical abuse, sexual abuse, verbal and emotional abuse and economic abuse;

shall be punishable with imprisonment for a term which shall not be less than six months or with fine or with both.

**CHAPTER VIII  
MISCELLANEOUS**

**18. 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.

**19. Protection of action taken in good faith.-** No suit, prosecution or other legal proceeding shall lie against the Government or any local authority or any officer of the Government in respect of anything which is in good faith done or intended to be done in pursuance of the provisions of this Act and any rules made thereunder.

**20. Power to make rules.-** (1) The Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:-

- (a) the form and manner in which an application shall be made under section 5;
- (b) the form and manner in which a certificate of identity is issued under sub-section (1) of section 7;
- (c) the form and manner in which an application shall be made under sub-section (1) of section 8;
- (d) facilities to be provided under this Act; and
- (e) any other matter which is required to be or may be prescribed.

**21. Power to remove difficulties.-** If any difficulty arises in giving effect to any provisions of this Act, the Federal 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**

The Act seeks to protect the most marginalized communities of transgender in the country owing to their innocence with both of them general categories of genders. The community faces problems ranging from exclusion to discrimination, lack of education facilities, unemployment, lack of medical facilities and so on.

2. Notwithstanding the protection guarantees by the Constitution of Pakistan, 1973 in Article 14 for dignity of human being and privacy of home, in Article 15 freedom of movement and Article 38 expressly makes it obligingly upon the State to secure the well-being of the people, irrespective of sex, caste, creed or race, by raising their standard of living etc., the discrimination and atrocities against the transgender community is upon secret. In order to effectively address the issue being confronted by this marginalized community, the instant Bill seeks to,-

- (a) define a transgender person;
- (b) prohibit discrimination against transgender person;
- (c) confer right upon transgender person recognized as such, and a right to self-perceived gender identity;
- (d) issue of certificate of identity to transgender persons;
- (e) provide that no establishment shall discriminate against transgender person in matters relating to employment, recruitment, promotion and other related issues; and
- (f) provide for grievance redressal mechanism in each establishment.

3. This Bill has been designed to achieve the aforesaid objectives.

**SENATOR ZAHEER-UD-DIN BABAR AWAN**  
**Member-in-Charge**