



House of the Federation

## **SENATE OF PAKISTAN**

**REPORT NO. 20**

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

**ON**

***“The Transgender Persons (Protection of Rights)  
(Amendment) Bill, 2022”***

***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, 2022" introduced by Senator Fawzia Arshad, in the Senate sitting held on 26<sup>th</sup> September, 2022. 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 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 Fawzia Arshad Member-In-Charge briefed the Committee about the salient features of the Bill that the Transgender Persons (Protection of Rights) Act, 2018 has been enacted to protect and safeguard the rights of transgender community in Pakistan. Its objective is to ensure provision of rights to own, inherit property, acquire education and employment, vote for candidates of their own choice, hold public office, assemble peacefully for any lawful purpose, access to public places and ensure fulfillment of fundamental rights for the transgender people, residing in Pakistan. However, various lacunas and loopholes have been observed in this Act, that needs to be addressed and transferred its benefits to the said group of people on priority basis. Moreover, the said Act does not conform to the principles and rules, developed under Sharia for dealing with the issues, related to transgender persons in a Muslim society. Hence, these amendments are brought to fill the gaps and make this Act more effective and worthwhile for reducing suffering, improving standard of living and reforming the most deprived segment of society.

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 the Committee 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:-

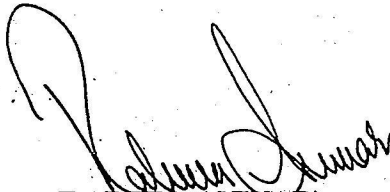
- i. The Transgender Persons (Protection of Rights) (Amendment) Bill, 2021" introduced by Senator Mushtaq Ahmed, in the Senate sitting held on 15th November 2021.

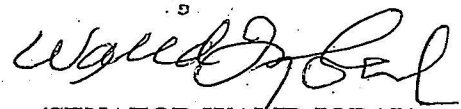
- ii. "The Khunsa Persons (Protection of Rights) Bill, 2022" introduced by Senator Mushtaq Ahmed, in the Senate sitting held on 3rd October, 2022.
- iii. The Transgender Persons (Protection of Rights) (Amendment) Bill, 2022" introduced by Senator Mohsin Aziz, in the Senate sitting held on 3rd October, 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. Accordingly, the Committee recommends that "The Transgender Persons (Protection of Rights) (Amendment) Bill, 2022", 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

**INTRODUCED ON 26.09.2022.**  
**[AS INTRODUCED IN THE SENATE]**

**A**  
**BILL**

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

**WHEREAS** it is expedient further to amend 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, 2022.

(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,-

(i) for clauses (e) and (f) the following shall be substituted, namely:-

"(e) **"gender expression"** refers to a person's presentation of one's gender identity in terms of male, female and transgender;

(f) **"gender identity"** means a person characterized as male, female or transgender on the basis of one's physical and biological traits;" and

(ii) for clause (n), the following shall be substituted, namely:-

"(n) **"transgender person"** is a person who is hermaphrodite, with or without both male and female organs, or keeps one hole for urination."

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

(i) in sub-section (1), the expression "as per his or her self-perceived gender identity, as such," shall be omitted;

(ii) in sub-section (2), the expression "as per self-perceived gender identity" shall be omitted;

(iii) in sub-section (3), the expression "according to self-perceived gender identity" shall be omitted; and

(iv) sub-section (4) shall be omitted.



4. **Amendment of section 7, Act XIII of 2018.-** In the said Act, in section 7, in sub-section (3), for clause (iii), the following shall be substituted, namely:-

"(iii) for person who has either both male and female organs, or devoid of both or having ambiguous characteristics, such as their state is difficult to determine, in this case, share of inheritance will be equivalent to both, half share of male and female."

5. **Amendment of section 8, Act XIII of 2018. -** In the said Act, in section 8, in sub-section (1), for the comma ",", occurring after the word "private", a full stop "." shall be substituted, and thereafter, the expression, "subject to fulfillment of the prescribed requirements." shall be omitted.

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

The Transgender Persons (Protection of Rights) Act, 2018 has been enacted to protect and safeguard the rights of transgender community in Pakistan. Its objective is to ensure provision of rights to own, inherit property, acquire education and employment, vote for candidates of their own choice, hold public office, assemble peacefully for any lawful purpose, access to public places and ensure fulfillment of fundamental rights for the transgender people, residing in Pakistan. However, various lacunas and loopholes have been observed in this Act, that needs to be addressed and transferred its benefits to the said group of people on priority basis. Moreover, the said Act does not conform to the principles and rules, developed under Sharia for dealing with the issues, related to transgender persons in a Muslim society. Hence, these amendments are brought to fill the gaps and make this Act more effective and worthwhile for reducing suffering, improving standard of living and reforming the most deprived segment of society.

2. This Bill is aimed to achieve the above-said objective.

**SENATOR FAWZIA ARSHAD  
MEMBER IN CHARGE**