

AS

[~~TO BE 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 Transgender Persons (Protection of Rights) (Amendment), Act, 2022.

(2) It shall come into force at once

**2. Amendment of long title and preamble, Act XIII of 2018.-** In the Transgender Persons (Protection of Rights) Act, 2018 (XIII of 2018), hereinafter referred to as the said Act, in the long title and preamble, for the word "transgender", occurring twice the word "intersex" shall be substituted.

**3. Amendment of section 1, Act XIII of 2018.-** In the said Act, in section 1, in sub-section (1), for the word "Transgender" the word "Intersex" shall be substituted.

**4. Amendment of section 2, Act XIII of 2018.-** In the said Act, in section 2, in sub-section (1),-

(i) in clause (a), for the word "Transgender" the word "Intersex" shall be substituted;

(ii) in clause (c), for the word "transgender" the word "intersex" shall be substituted;

(iii) clause (e) shall be omitted;

(iv) for clause (f), the following shall be substituted, namely;-

**"(f) "gender Identity"** means a person's sexual identity that corresponds to his / her sex at birth whether male, female or intersex."; and

(v) in clause (l) after semi colon ";" occurring at the end the word "and" shall be added;

(vi) in clause (m) for the expression "; and" a full stop "." Shall substituted; and

(vii) clause (n) shall be omitted.

**5. Amendment of Chapter II, Act XIII of 2018.-** In the said Act, in Chapter II, in the heading for the word "TRANSGENDER" the word "INTERSEX" shall be substituted.

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

- (i) in the marginal note, for the word "transgender" the word "intersex" shall be substituted;
- (ii) in sub-section (1),-
  - (a) for the word "transgender", the word "intersex" shall be substituted and for the expression "as per his or her self - perceived gender identity, as such," the words "sex at birth" shall be substituted; and
  - (b) in sub-section (2), for the words "as per self-perceived gender identity" the words "as per his / her sex at birth" shall be substituted; and
  - (c) sub-sections (3) and (4) shall be omitted.

**7. Amendment of section 4, Act XIII of 2018. -** In the said Act, in section 4,-

- (i) for the word "transgender", the word "intersex" shall be substituted; and
- (ii) in clause (i), for the word "transgender", the word "intersex" shall be substituted.

**8. Amendment of section 5, Act XIII of 2018.-** In the said Act, in section 5, for the word "transgender", the word "intersex" shall be substituted.

**9. Amendment of section 6, Act XIII of 2018.-** In the said Act, in section 6,-

- (i) for the word "transgender" the word "intersex" shall be substituted;
- (ii) in clause (a) for the word "transgender" occurring twice the word "intersex" shall be substituted;
- (iii) in clause (b) for the word "transgender" the word "intersex" shall be substituted;
- (iv) in clause (c) for the word "transgender" the word "intersex" shall be substituted;

- (v) in clause (d) for the word "transgender" the word "intersex" shall be substituted; and
- (vi) in clause (e) for the word "transgender", the word "intersex" shall be substituted.

**10. Amendment of Chapter V, Act XIII of 2018.-** In the said Act, in Chapter V, in the heading for the word "**TRANSGENDER**" the word "**INTERSEX**" shall be substituted.

**11. Amendment of section 7, Act XIII of 2018.-** In the said Act, in section 7,-

- (i) in sub-section (1), for the word "transgender", the word "intersex" shall be substituted;
- (ii) in sub-section (2), for the word "transgender" the word "intersex" shall be substituted.
- (iii) in sub-section (3),-
  - (a) for the word "transgender", the word "intersex" shall be substituted;
  - (b) in clause (i) for the word "transgender" the word "intersex" shall be substituted;
  - (c) in clause (ii) for the word "transgender" the word "intersex" shall be substituted; and
  - (d) in clause (iii), sub-clauses (a), (b), (c) and (d) shall be omitted.

**12. Amendment of section 8, Act XIII of 2018.-** In the said Act, in section 8,-

- (i) in sub-section (1), for the word "transgender" the word "intersex" shall be substituted;
- (ii) in sub-section (3), for the word "transgender", the word "intersex" shall be substituted; and

- (iii) in sub-section (4), after the words "person's sex" a full stop "." shall be inserted and the expression ",gender identity and gender expression," shall be omitted.

**13. Amendment of section 9, Act XIII of 2018.-** In the said Act, in section 9,-

- (i) in sub-section (1), for the word "transgender", the word "intersex" shall be substituted; and
- (ii) in sub-section (2), for the word "transgender", the word "intersex" shall be substituted.

**14. Amendment of section 10, Act XIII of 2018.-** In the said Act, in section 10,-

- (i) for the word "transgender", the word "intersex" shall be substituted; and
- (ii) in the proviso for the word "transgender", the word "intersex" shall be substituted.

**15. Amendment of section 11, Act XIII of 2018.-** In the said Act, in section 11, for the word "transgender", the word "intersex" shall be substituted.

**16. Amendment of section 12, Act XIII of 2018. -** In the said Act, in section 12,-

- (i) for the word "transgender", the word "intersex" shall be substituted;
- (ii) in clause (a), for the word "transgender", the word "intersex" shall be substituted;
- (iii) in clause (b), for the word "transgender", the word "intersex" shall be substituted; and
- (iv) in clause (c), for the word "transgender", the word "intersex" shall be substituted.

**17. Amendment of section 13, Act XIII of 2018.-** In the said Act, in section 13,-

- (i) in sub-section (1) for the word "transgender", the word "intersex" shall be substituted; and
- (ii) in sub-section(2) for the word "transgender", the word "intersex" shall be substituted.

**18. Amendment of section 14, Act XIII of 2018.-** In the said Act, in section 14,-

- (i) in sub-section (1) for the word "transgender", the word "intersex" shall be substituted;
- (ii) in sub-section (2) for the word "transgender", the word "intersex" shall be substituted; and
- (iii) in sub-section (3) for the word "transgender", the word "intersex" shall be substituted.

**19. Amendment of section 15, Act XIII of 2018.** In the said Act, -in section 15,-

- (i) in sub-section (1) for the word "transgender" the word "intersex" shall be substituted; and
- (ii) in sub-section (2) for the word "transgender" the word "intersex" shall be substituted.

**20. Amendment of section 16, Act XIII of 2018.-** In the said Act, in section 16, in sub-section (1) for the word "transgender", the word "intersex" shall be substituted.

**21. Amendment of section 17, Act XIII of 2018.-** In the said Act, in section 17, for the word "transgender" the word "intersex" shall be substituted.

**22. Amendment of section 18, Act XIII of 2018.-** In the said Act, in section 18, for the word "transgender" the word "intersex" shall be substituted.

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

The Intersex persons (commonly known as *Khwajasara*) face tremendous social and other problems in the society and their rights must be protected. "The Transgender Persons (Protection of Rights) Act 2018" has not been able to effectively address their problems amicably and effectively.

This Act has grossly intruded on the rights of women who are already deprived of many rights and face enormous issues and discrimination. Whereas under this Act a man, as per his self perceived gender identity, can legally change his identity to woman as such "he" would be able to become member of the Parliament on reserved seats for women, get admission in female educational institution, utilize female facilities e.g. public toilets and parks reserved for women and also claim inheritance rights etc. In a similarly way a man, as per his self perceived gender identity, who has registered himself as woman shall have the legal right to marry a "person" who is registered as man thus opening a way

to homosexuality and many other moral, social, psychological problems. A woman can also convert herself to a man and get married to a woman which would result in legalization of homosexual marriages against injunctions of Islam. Transgender is a mental, psychological problem and most of the time can be cured by counseling and therapy. These serious issues are not only against the social and cultural norms of our society, but also the basic teachings of Islam, which is the official religion of Pakistan and "no Law shall be made against Islam" as per the Constitution of Pakistan.

3. It must be recognized that the primary objective of this Act is to protect the rights of *Khawajasara* called "Intersex". It generally means a person with ambiguous genitalia and is also known as Hermaphrodite.

4. The term "Transgender" was launched by an American psychiatrist John F. Oliven in 1965. It was essentially meant for persons who experience sexual orientation against their sex at birth. This is primarily a disordered mental state where a man may "feel-like" a woman or a woman "feel-like" a man or sometimes even may have "fluid gender perceptions" which is called "Non-Binary" gender. It is psychological / psychiatric state of mind and cannot be equated to "Intersex".

5. With the above backdrop it is expedient to amend "The Transgender Persons (Protection of Rights) Act, 2018" to provide full protection to the rights of "intersex" (*Khawajasara*) population and vis-à-vis protect the rights of woman.

6. The Bill seeks to achieve the above objects.

**SENATOR MOHSIN AZIZ**  
**MEMBER-IN-CHARGE**