



Source: Shell Global, 2021.



Sexual Orientation

in Pakistan



Index

Introduction

Factors of Discrimination

Interaction between Factors of Discrimination

COVID-19

Pakistani Law

Laws Concerning Transgender Persons

The Transgender Persons (Protection of Rights) Act, 2018

Case Law

Homosexual-orientation

International Law

International Covenant on Civil and Political Rights

Convention on the Elimination of All forms of Discrimination against Women

Universal Declaration of Human Rights

International Covenant on Economic, Social and Cultural Rights

Recommendations

Reflection on International Laws & Role of International Community

Recommendations

References

Introduction

In Pakistan, the LGBTQ+ Community (Lesbian, Gay, Bisexual, Transgender, Queer, and others) faces frequent violence and is discriminated against on grounds of sexual orientation. Research has shown that 91% of members of the transgender community in Pakistan, also known as Hijra, have experienced discrimination, and around 78% experienced physical attacks on the sole basis that they were transgender (Pan African Medical Journal, 2018). There is an apparent rise of LGBTQ+ violence in Pakistan and a further lack of action from the judicial system, which causes a significant lack of justice, education, and awareness on this rising problem. According to a 2017 report from the US Department of State Human Rights (US Department of State, 2017), impunity for the violence committed against the LGBTQ+ community often occurs because police officers are reluctant or even refuse to take action in punishing those hurting or discriminating against members of the community.

Sexual orientation is understood to refer to each person's own capacity for profound emotional, affectional, and sexual attraction to, and intimate and sexual relations with, individuals of a different gender or the same gender or more than one gender or nobody at all, however one associates themselves with (Yogyakarta Principles, 2007). Gender identity, on the other hand, refers to each person's deeply felt internal and individual experience of their gender, which either corresponds with the one they were assigned at birth, male or female, or not. "Gender identity" is a broad term, as it includes the personal sense of someone's body, which can involve, if freely chosen, the modification of bodily appearances by medical means, and other expressions of their gender, including the way that someone dresses, their speech, and manners. In other words, sexual orientation refers to a possible interest in another person, either from the same gender or another gender, while gender identity refers to how that person perceives themselves, either as male, female, or none of the two, also known as they/them or non-binary persons (Yogyakarta Principles, 2007).

This research report will focus on this exact minority group in Pakistan that express their sexual orientation and gender identity. It will focus on the factors of discrimination, the impact of COVID-19 on these discrimination issues, Pakistan's national laws, international laws, and the international community's role.

Factors of Discrimination

On average, hate-motivated violence against LGBTQ+ people is perpetrated by non-State actors - it could be private individuals, organized groups, or extremist organizations (UNHRO, 2012). Nonetheless, States also play an active role - they either fail to address the issue of violence, and consequently overlook investigation and punishment of perpetrators, or even become an active part of discrimination, committing what is called institutional discrimination.

As mentioned before, in the international community, each State has the obligation to protect their citizens' rights to life, liberty and security of person, as guaranteed by article 3 of the Universal Declaration of Human Rights (UDHR), and article 6 and 9 of the International Covenant on Civil and Political Rights (ICCPR) (UNHRO, 2012). Moreover, the United Nations' human rights treaty bodies have confirmed that sexual orientation and gender identity are included among prohibited grounds of discrimination under international human rights law. This means that it is unlawful to make any distinction of people's rights based on the fact that they are part of the LGBTQ+ community (Free & Equal United Nations for LGBT Equality, 2017).

Nevertheless, Pakistan has long-standing issues regarding discrimination based on sexual orientation and gender identity. Communities of openly transgender women have been marginalized and are frequently targets of violence and harassment (US Department of State, 2017). In 2013, the Pakistan Telecommunications Authority blocked the country's first online platform for the LGBTQ+ community aimed at sharing views and networking (US Department of State, 2017). Research from the Department of Community Medicine of Islamabad (YMDC) pointed out the many levels on which discrimination towards the LGBTQ+ community is perpetrated: the physical, institutional and societal levels (Shah et al, 2018). The findings of the research further provide evidence that transgender communities in Pakistan face extreme forms of social exclusion, mainly due to negative overall attitude of people towards non-straight people, as also previously shown by a study on this matter (Ahmed et al, cited in Abdullah et al, 2012). Discriminatory victimization, institutional discrimination, physical/verbal abuse, forced sexual relations at tender age and lack of support from the family and community all have potential disruptive effects on transgender people. Findings also showed a connection between multiple forms of victimization and suicide (Seedat et al, 2005; Barboza et al, 2016). Indeed, participants of the study from the YMDC who experienced physical victimization due to their gender identity are shown to be more likely to engage in suicidal behavior compared to individuals who are either not physically victimized or who are physically victimized but do not attribute that experience to gender. This is consistent with findings of previous research in the USA (Barboza et al, 2016) and Italy (Baiocco et al, 2014).

Societal discrimination can also be detected from other relevant data. One clear example is the average monthly income of the participants in the YMDC study: less than 1000 Rs, remarkably less than the government's minimum pay scale of 14000 Rs/month (announced in the 2016 budget) (Shah et al,

2018). Furthermore, around 94,2% were unemployed, and their main source of income was beggary, dance, and alms (69,3%). Another factor that outlines social discrimination was participants' preference in seeking health care outside of government hospitals, thus showing distrust in fair treatment by the State (Shah et al, 2018).

Another clear example of institutional discrimination is, for instance, refusal from the police to take action on cases involving members of the LGBTQ+ community. In Karachi, Sindh police were either very slow or reluctant to pursue crimes committed against transgender women, specifically in two separate gang rapes cases in September 2017 (US Department of State, 2017).

Interaction between Factors of Discrimination

In such a complex and multifaceted context, it is almost impossible to outline a hierarchy among these discriminatory factors, which are woven together in a tight net of cultural, historical, and geographical components. This many cases of physical victimisation and aggression are only possible in a social context that doesn't punish these behaviours, or in a community that perpetrates social and institutional discrimination.

Furthermore, institutional and social discrimination leans towards a “ghettoization” of the minorities involved. Lack of education brings a consequent lack of occupational and social opportunities, leading these people to opt for unfair means of earning as described in the YMDC study above i.e. begging and selling sex. Moreover, these groups tend to congregate in communes, which act as individual family units, with the Guru serving the role of decision maker, while hijras (derogatory local term to indicate transgender individuals) are expected to generate income to sustain the commune (Shah et al, 2018).

Several other studies observe how the lack of family support for these subjects is crucial in leading them towards the vicious cycle of social exclusion (Rehan et al, 2012; Shah et al, 2018). This exclusion forces the transgender community to indulge into conducts that are considered highly inappropriate by the majority of the population, thus strengthening social discrimination and worsening physical and psychological abuses.

Therefore, promoting accepting environments and decreasing gender-based prejudices has been indicated as paramount to improve the social acceptance of the LGBTQ+ community and fight social stigmas connected to different sexual orientations and gender identities (Shah et al, 2018). In other words, fighting social and institutional discrimination is the first of the crucial steps to be taken in order to contrast all the factors of discrimination, and invert the vicious circle of social exclusion.

The Pakistani Government is committing to safeguard this minority group, and to institutionally provide protection, relief and rehabilitation of their rights, as the explanation of Pakistani law, and specifically the Transgender Persons (Protection of Rights) Act present in chapter 5, will show.

COVID-19

The COVID-19 pandemic has had a striking economic, social, and political impact worldwide, and especially in countries with a lower socio-economic standing like Pakistan. As the COVID-19 crisis is ongoing, there is no clear overview of its impact and extra challenges for the LGBTQ+ community just yet. However, particular challenges that the community already faces have been negatively impacted, as the COVID-19 crisis exacerbated existing issues. These challenges concern employment, systematic discrimination, violence, and access to political rights and health care systems.

Concerning the rise of LGBTQ+ violence cases, during the COVID-19 crisis, there was an exceptional rise in domestic and gender-based violence cases. Lockdowns, loss of jobs, working from home, and the deteriorated economy caused a severe incidence of domestic violence cases. A 25% rise estimation is made in domestic violence cases, while most domestic violence is actually not even reported (ANI, 2021). Additionally, LGBTQ+ members are two to three times more likely to be impacted by domestic violence (IFES, 2020), which raises a serious concern about the rise in LGBTQ+ violence cases.

Another issue arises when focusing on the lack of computerized national identification cards (CNIC) within the LGBTQ+ community. The CNIC card is an ID card that is required to access COVID-19 government aid and relief. The transgender community lack access to a CNIC due to incorrect gender registration, with many transgender community members being registered as either male or female rather than the 'X' category.

The Supreme Court estimated around 300,000 transgender people in Pakistan (DW, 2020). In 2018, the census identified only 1,930 registered transgender voters with NICs (IFES, 2020). This number should have grown, since the Supreme Court ruled in 2018 that the transgender community should receive free national identity cards (UCA News, 2018). Unfortunately, the crisis has shown that the number of registered transgender people has not grown, despite being urged to register to access financial government aid and relief, resources, and vaccination registration (The Express Tribune, 2021). This further leads to a severe economic impact for the LGBTQ+ community. Firstly, because you cannot receive financial aid without a NIC, meaning that many LGBTQ+ members are missing out on financial support during the COVID-19 crisis. Furthermore, because finding employment is challenging for the LGBTQ+ community in Pakistan: as previously stated, 69% of the overall income of the transgender community is earned by dancing, begging, and sex work (NDU, 2019). The various lockdowns that took place, social distancing, and COVID-19 restrictions made it impossible to generate income in this manner.

It was extremely challenging for the Pakistani government to further support the LGBTQ+ community during COVID-19. Pakistan established a Command and Control Center to coordinate the federal and provincial governments with measures, information, and relief supplies. In July 2020, the Ministry of Human Rights distributed assistance packages to the most vulnerable transgender persons living in Islamabad and Rawalpindi (UN Pakistan, 2020).

However, the National Action Plan of Pakistan is not sufficient for the LGBTQ+ community to equally access health facilities and safely practice self-isolation and social distancing. Moreover, as mentioned above, it is impossible for most transgender persons to access government aid and to generate income while social distancing. For this reason, the recommended action for the Pakistani government would entail alternative methods for accessing relief and COVID-19 resources for those who do not have a NIC.

Other actions would benefit vulnerable LGBTQ+ members throughout Pakistan during the COVID-19 crisis, such as financial assistance, access to public health care, shelter, and safe houses.

Pakistani Law

This Chapter will address the legal developments in Pakistan concerning the LGBTQ+ community.

5.1. Laws Concerning Transgender Persons

This section will elaborate upon the statutory and case law touching upon the rights of the transgender community in Pakistan.

5.1.1. The Transgender Persons (Protection of Rights) Act, 2018

The “Transgender Persons (Protection of Rights) Act 2018 (Transgender Persons Act)” was enacted “to provide for protection, relief and rehabilitation of rights of the transgender persons and their welfare and for matters connected therewith and incidental thereto” (Preamble). The said Act defines “transgender person” under Article 2(1)(n).

Chapter II of the Transgender Persons Act deals with “Recognition of Identity of Transgender Person”. Article 3 prescribes that “A transgender person shall have a right to be recognized as per his or her self-perceived gender identity, as such, in accordance with the provisions of this Act.” Moreover, Chapter III prescribes “Prohibition of Certain Acts”. In this regard, Article 4 prohibits discrimination or unfair treatment on the enlisted grounds against a transgender person, for example: “employment, trade or occupation”; “educational institutions and services thereof”; “healthcare services”, etc. (Article 4, Transgender Persons Act). In addition, Article 5 provides for prohibition of harassment on the basis of “sex, gender identity and gender expression”. Further, Chapter IV: Article 6 defines “Obligations of the Government” to take steps defined in said article to secure full and effective participation of transgender persons and their inclusion in society.

Chapter V is also significant because it specifies the “Protection of Rights of Transgender Persons”, such as: “Right to inherit”; “Right to education”; “Right to employment” etc. (Article 7-17, The Transgender Persons Act). In addition to the rights enshrined in Chapter V, Article 16 guarantees that “fundamental rights mentioned in Part II of Chapter 1 of the Constitution of the Islamic Republic of Pakistan shall be available unequivocally for every transgender person”.

Lastly, Chapter VI: Article 18 allows for an “Enforcement mechanism” for the aforementioned rights and remedies. It allows the aggrieved transgender person to have, in addition to remedies under the general law of the country, “[...] right to move a complaint to the Federal Ombudsman, National Commission for Status of Women and National Commission of Human Rights (NCHR) if any of the rights guaranteed herein are denied to him or her”.

5.1.2. Case Law

In a recent case involving the “[...] Petitioner being a transgender person, in exercise of its option under [...] the Transgender persons Protection Rights Act 2018 applied for the post of Lecturer (Female), however, the application of the petitioner was rejected [...] on ground that the said posts have been

earmarked for Lecturers (Male/Female) and not for transgender persons [...]”¹. Subsequent to the filing of the petition, the respondent “[...] conceded to the claim of the petitioner and allowed the petitioner to participate in the recruitment process [...]”². The Lahore High Court expressed its disappointment in the governmental authority and stated that it is the utmost responsibility of the government to uphold the provisions of the Transgender Persons Act in “[...] letter and spirit by not letting Government Department discriminate between male, female and transgender persons as being a transgender person is neither an option nor preference but a recognized and respectable third gender all over the world”.³

In another case titled “Mian Asia v Federation of Pakistan”⁴ the petitioner, being a transgender person, was denied renewal of the national identity card on the ground that the petitioner could not provide the name of their father.⁵ It is submitted before the Court by the Petitioner’s counsel that “[...] the petitioner and other transgenders have been abandoned by their families are not aware about their parentage, therefore, on this grounds alone, they cannot be deprived of their fundamental rights to be citizen of Pakistan and issuance of their CNICs”.⁶ The Lahore High Court accepted the petition and ruled that transgenders “[...] cannot be deprived of their rights including right to obtain CNIC or citizenship for mere reason that they are transgenders/eunuchs and do not know the whereabouts of their parents, without any fault of their own. The public functionaries and policy makers are expected to be more sensitive toward restoring dignity of transgender community rather adding to their existing plight”.⁷

5.2. Homosexual-orientation

Consensual same-sex sexual conduct is also considered a criminal offense in Pakistan. The penalty is a fine, two years to life imprisonment, or both (Section 377 of the Pakistan Penal Code, 1860). Besides that, Section 4 of the Hudood Ordinance of 1979 criminalizes sexual intercourse outside of marriage according to Sharia law. Again, non-heterosexual marriages are illegal, with the penalty being death by stoning for married people, or 100 lashes for unmarried people (Section 4, Hudood Ordinance 1979).

1. Faiz Ullah v Punjab Public Service Commission, PLD 2021 Lah 284, para. 2.
2. *ibid*, para 10.
3. *ibid*, para 11.
4. Mian Asia v Federation of Pakistan, PLD 2018 Lah 54.
5. *ibid*, para. 2.
6. *ibid*, para. 3.
7. *ibid*, para 11.

International Law

On the international level, the protection of the LGBTQ+ community is still relatively scarce but can also be found, indirectly, in long-existing international documents.

6.1. International Covenant on Civil and Political Rights

One of such documents is the International Covenant on Civil and Political Rights (ICCPR, 1966), which Pakistan ratified in 2010. Article 26 of which states that:

“All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status” (Article 26 ICCPR, 1966).

“Sex” generally refers to one's gender, but certainly, one's gender identity, whether a person identifies themselves as he, she, or they/them, can also be included under this ground. This right is furthermore inherited in article 2.1 of the ICCPR (1966), where once more attention is brought to respecting and ensuring fundamental rights without distinction or discrimination on any basis. Additionally, the preamble imposes an obligation on the state parties “to strive for the promotion and observance of the rights recognized in the present Covenant” (ICCPR, 1966) - as Article 50 further states, this duty shall extend to all state parties without exceptions or limitations made.

6.2. Convention on the Elimination of All forms of Discrimination against Women

Another relevant treaty is the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW, 1979), which Pakistan ratified in 1996. This Convention provides, in Article 1, the definition of “discrimination against women” as “any distinction, exclusion or restriction made based on sex” (Article 1 CEDAW, 1979). This also entails protection against any form of gender-based violence, as further laid down in Article 2 of the Convention.

Human Rights Watch (HRW) reviewed Pakistan's adherence to the Convention on the Elimination of All Forms of Discrimination Against Women (1979) in 2020. HRW filed a submission to the Committee on the Elimination of Discrimination against Women, focusing on Article 2, and concentrating on the increasing amount of violence and honour killings in Pakistan. With this, they urged the Committee to issue recommendations to increase access to emergency shelter, reform the law further to eliminate loopholes, and ensure prosecution of all murder and violence (HRW, 2020).

6.3. Universal Declaration of Human Rights

The Universal Declaration of Human Rights (UDHR, 1948) is another crucial treaty to consider. Here we must focus on the preamble, which is enshrined on the “recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family”.

Article 2 further focuses on the entitlement that every human being has concerning rights and freedoms as set forth without distinction of any kind. These rights and freedoms are, among others, the right to be recognized before the law (Art. 6), the right to protection against discrimination (Art. 7), the right not to be subjected to inhumane or degrading treatment (Art. 5) and the right to a nationality (Art. 15) (UDHR, 1948). As Pakistan has ratified this declaration, it must take all possible measures to ensure full compliance.

6.4. International Covenant on Economic, Social and Cultural Rights

The final convention that will be presented in this report is the International Covenant on Economic, Social, and Cultural Rights, which Pakistan ratified in 2008. The preamble states the purpose of the Covenant following the Universal Declaration of Human Rights and principles proclaimed in the Charter of the United Nations (CESCR, 1985). This Covenant is focused on promoting universal respect for and observance of human rights and freedoms deriving from the inherent dignity of the human person (CESCR, 1985).

When focusing on a crucial article for the LGBTQ+ community, we must focus on Article 12, subsequent to its General Comment No. 22. Article 12 and General Comment No. 22 focus on the right to sexual and reproductive health. These rights include the “right to make free and responsible decisions and choices, free of violence, coercion, and discrimination, regarding matters concerning one's body and sexual and reproductive health” (UN General Comment No. 22). This Comment further laid down the normative elements of the right to attain the highest attainable physical and mental health. These elements entail availability, accessibility, affordability, acceptability, and quality of the health facilities, goods, information, and service.

Furthermore, the General Comment focuses on the broader application of this right, which is non-discrimination and equality. Section 23 of the Comment thereby states: “Non-discrimination, in the context of the right to sexual and reproductive health, also encompasses the right of all persons, including lesbian, gay, bisexual, transgender and intersex persons, to be fully respected for their sexual orientation, gender identity, and intersex status”. This, once more, emphasizes the importance of these international law conventions and the importance of adherence from the state party.

6.5. Recommendations

Besides the international conventions Pakistan has ratified, there are still some recommendations that Pakistan should adhere to. For instance, the Yogyakarta Principles, which concern the application of international human rights law in relation to sexual orientation and gender identity. Even though the Yogyakarta Principles are soft law and thus non-binding on States, they are still very important international guidelines for the LGBTQ+ community. This is the only existing international document that explicitly addresses these two notions that are important for the protection of the LGBTQ+ community, but because it is non-binding, it potentially has little impact on the actual protection granted towards the community. The introduction to the Principles rightly states that: “sexual orientation and gender identity are integral to every person's dignity and humanity and must not be the basis for discrimination or abuse” (Yogyakarta Principles, 2007).

The Principles specifically mention that everyone is entitled to all human rights without discrimination based on sexual orientation or gender identity. This includes any distinction, exclusion, restriction, or preference based on sexual orientation or gender identity with the purpose of nullifying or impairing equality before the law (Principle 2 of the Yogyakarta Principles: the rights to equality and non-discrimination, 2007).

Furthermore, the Yogyakarta Principles lay down that everyone, irrespective of sexual orientation or gender identity, is entitled to the enjoyment of privacy without arbitrary or unlawful interference. This right to privacy includes one's choice to disclose or not to disclose information relating to their sexual orientation or gender identity, including decisions and choices regarding one's own body and sexual relations (Principle 6 of the Yogyakarta Principles: the right to privacy, 2007).

Reflection on International Laws & Role of International Community

United Nations human rights treaty bodies, such as the United Nations Human Rights Committee, the Committee on Economic, Social and Cultural Rights, the Committee on the Rights of the Child, the Committee against Torture, and the Committee on the Elimination of Discrimination Against Women have repeatedly confirmed that sexual orientation and gender identity are included as prohibited grounds of discrimination under international human rights law. Meaning, it is regarded as illegal and unlawful to make any distinction of someone's rights just for the reason that they belong to the LGBTQ+ community (Free & Equal United Nations for LGBT Equality, 2017).

The United Nations General Assembly has also called on States to ensure the protection of the right to life for all persons under their jurisdictions and has ordered States to investigate all killings motivated by the victim's sexual orientation and gender identity, promptly and thoroughly (UNGA Resolution A/RES/67/168).

Furthermore, Resolution 17/19 from the United Nations Human Rights Council, which is the first UN intergovernmental body to adopt such a wide-ranging resolution, expresses its grave concern around the violence and discrimination towards certain individuals based on their sexual orientation and gender identity. This resolution ordered a study on the scope and extent of these violations and the measures needed to address them (Resolution 17/19 UNHRC). Following that request, the Office of the High Commissioner for Human Rights released a report in December 2011. This report showed a clear pattern of violence and discrimination directed specifically at individuals whose sexual orientation and gender identity was "different". It documented discriminatory laws and practices, as well as how international human rights law can be used to end this violence and these violations (Report of the OHCHR, 2011).

Recommendations

In another report by the United Nations Office of the High Commissioner, States' core obligations with the LGBTQ+ persons in their communities are laid down, thereby recommending how a country, any country, can respect the rights of these people and international law. The recommendations laid down in the report give specific guidance to States and advise them on how to take the necessary steps in order for them to meet their fundamental human rights obligations:

Firstly, the LGBTQ+ community must be protected from homophobic and transphobic violence. For example, sexual orientation and gender identity must be a protected characteristic of any person, to be implemented in hate crime laws. Also, effective systems which can record and report on hate-motivated acts of violence against this community must be established. Effective investigation and prosecution of perpetrators of this violence must also be ensured and victims must receive reparation accordingly. Concerning asylum laws and policies, persecution on account of one's sexual orientation or gender identity may be a valid basis for an asylum claim.

Secondly, acts of torture, cruel, inhumane, and degrading treatment of the LGBTQ+ community when in detention must be prevented at all costs, as enshrined in the United Nations Convention Against Torture (UNCAT) (1984), Article 1(1). This can be achieved through prohibition and punishment of such acts, and ensuring victims are provided with the appropriate redress. Acts of such mistreatment must be investigated by the State and those responsible must be brought to justice. In order for this recommendation to succeed, law enforcement officers, such as police officers or prison guards must be trained appropriately and effectively, and they must ensure the necessary monitoring of all places of detention. Only then, the hate violence against the LGBTQ+ can be prevented from occurring again.

Thirdly, laws criminalizing homosexuality must be repealed, meaning all laws within a national system, as well as the international system, that prohibit sexual conduct between consenting adults of the same sex. As one can see, Pakistani law must be altered to a great extent for it to adhere to this recommendation. On top of that, individuals should not be arrested or detained because of their sexual orientation or gender identity, and they must never be subjected to unsubstantiated and degrading physical examinations which would determine their sexual orientation.

Fourthly, discrimination based on sexual orientation and gender identity must be completely prohibited. For this to be achieved, comprehensive laws must be adopted which will include sexual orientation and gender identity as a prohibited ground of discrimination. This can include non-discriminatory access to basic services, such as employment, health care and education. Furthermore, education and training must be provided to prevent discrimination and stigmatization of the LGBTQ+ community.

Lastly, it must be safeguarded that people belonging to the LGBTQ+ community enjoy freedom of expression, association and peaceful assembly just as much as any other person would in accordance with the Universal Declaration of Human Rights, articles 19 and 20(1) and the International Covenant on Civil and Political Rights, articles 19(2), 21 and 22(1). If limitations were to be put on these rights, they would have to be in accordance with international law and must never be discriminatory against the community. Individuals who exercise the aforementioned rights must be protected from any acts of violence or intimidation committed against them by private parties (OHCHR, 2012).

Conclusion

This research report has shown the reader that the LGBTQ+ community faces a difficult time in Pakistan. With national laws in place which make it almost impossible for this community to live their lives in a satisfactory and fair way, according to their sexual orientation and gender identity, and with the COVID-19 crisis still ongoing, it is essential that the Pakistani government takes the recommendations from the Yogyakarta Principles and the international community seriously. It is vital for the LGBTQ+ community that the Pakistani government adhere to the international obligations they have ratified and adjust their national laws in accordance. Every person, regardless of age, sex, gender, nationality, and others, deserves to live their life in their own chosen way, with whomever they choose to share it with. This is not to say this is a problem specific to Pakistan - all nations should be attentive to these issues. It is imperative that the international community take note of the 5 recommendations made by the United Nations Office of the High Commissioner, allowing the LGBTQ+ community to thrive without discrimination and with respect for their sexual orientation and gender identity.

References

- Abdullah MA, Basharat Z, Kamal B, Sattar NY, Hassan ZF, Jan AD, Shafqat A. (2012). Is social exclusion pushing the Pakistani Hijras (Transgenders) towards commercial sex work? A qualitative study. *BMC international health and human rights.*; 12: 32. PubMed | Google Scholar
- Ahmed U, Yasin G, Umair A. (2014). Factors Affecting the Social Exclusion of Eunuchs (Hijras) in Pakistan. *Mediterranean Journal of Social Sciences.*; 5(23): 2277-84. PubMed | Google Scholar
- Baiocco R, Ioverno S, Cerutti R, Santamaria F, Fontanesi L, Lingiardi V, Baumgartner E, Laghi F.(2014) Suicidal ideation in Spanish and Italian lesbian and gay young adults: the role of internalized sexual stigma. *Psicothema.*; 26(4): 490-96. PubMed | Google Scholar
- Barboza GE, Domínguez S, Chance E. (2016). Physical victimization, gender identity and suicide risk among transgender men and women. *Preventive medicine reports.*; 4: 385-90. PubMed | Google Scholar
- DNA. (March 05, 2021). Transgender people urged to register with NADRA. *The Express Tribune.*<https://tribune.com.pk/story/2287621/transgender-people-urged-to-register-with-nadra>.
- F. Tariq, S. Bibler. (May, 2020). Gender Impact of COVID-19 in Pakistan: Contextual Analysis and the Way Forward. International Foundation for Electoral Systems (IFES).
- Faiz ullah v. Punjab Public Service Commission, PLD 2021 Lah 284.
- Free & Equal United Nations for LGBT Equality. (2017, May). "Fact Sheet International Human Rights Law and Sexual Orientation & Gender Identity" <https://www.unfe.org/wp-content/uploads/2017/05/International-Human-Rights-Law.pdf>.
- https://www.ifes.org/sites/default/files/gender_impact_of_covid-19_in_pakistan_contextual_analysis_and_the_way_forward_may_2020.pdf.
- Human Rights Watch. (January 10th, 2020) Submission to the Committee on the Elimination of Discrimination against Women review of Pakistan. 75th Session, <https://www.hrw.org/news/2020/01/10/submission-committee-elimination-discrimination-against-women-review-pakistan>.
- M.Bari. (September 04, 2020). Coronavirus makes life more difficult for Pakistan's transgender community. *DW.* <https://www.dw.com/en/pakistan-transgender-coronavirus/a-54817362>.
- S.M. Hali, M.J. Awwal, S. Iqbal, S.K. Ali. (November 19, 2019). Transgender Persons (Protection of Rights) Act, 2018 in Pakistan; Mapping Stakeholder Perceptions for Future Policy Recommendations.
- Department of Government and Public Policy, National Defence University (NDU).
- Seedat S, Stein MB, Forde DR. (2005). Association between physical partner violence, posttraumatic stress, childhood trauma and suicide attempts in a community sample of women. *Violence and victims.*; 20(1): 87-98. PubMed | Google Scholar
- Shah, H., Rashid, F., Atif, I., Hydrie, M. Z., Fawad, M., Muzaffar, H. Z., Rehman, A., Anjum, S., Mehroz, M. B., Haider, A., Hassan, A., & Shukar, H. (2018). Challenges faced by marginalized communities such as transgenders in Pakistan. *The Pan African medical journal*, 30, 96. <https://doi.org/10.11604/pamj.2018.30.96.12818>
- South Asia's Leading Multimedia News Agency, ANI. (May 13, 2021). Domestic violence cases against Pakistani women increased during COVID-19 lockdown. <https://www.aninews.in/news/world/asia/domestic-violence-cases-against-pakistani-women-increased-during-covid-19-lockdown20210513144906/>.
- United Nations Pakistan. (December 09,2020). Social inclusion of vulnerable transgenders in times of COVID-19. <https://pakistan.un.org/en/104298-social-inclusion-vulnerable-transgenders-times-covid-19>.
- United Nations Economic and Social Council. General comment No. 22 (2016). on the right to sexual and reproductive health (article 12 of the International Covenant on Economic, Social and Cultural Rights). Committee on Economic, Social and Cultural Rights. <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=4slQ6Q5mlBEDzFEo vLCuW1a0Szab0oXTdImnsjZZVQfQejF41Tob4CvljeTiAP6sGFQktiae1vlb bOAEkmaOwDOWsUe7N8Tlm%2BP3HJPzjHySkUoHMavD%2Fpyfcp3Ylzg>.

United Nations General Assembly (2011, November 17) "A/HRC/19/41 Discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity - Report of the United Nations High Commissioner for Human Rights" <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G11/170/75/PDF/G1117075.pdf?OpenElement>.

United Nations General Assembly (2012, December 20). "Resolution A/RES/67/168. Extrajudicial, summary or arbitrary executions" <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N12/488/68/PDF/N1248868.pdf?OpenElement>.

United Nations Human Rights Council (2011, July 14). "A/HRC/RES/17/19 Human rights, sexual orientation and gender identity" <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G11/148/76/PDF/G1114876.pdf?OpenElement>.

United Nations Human Rights Office of the High Commissioner (2012) "Born Free and Equal - Sexual Orientation and Gender Identity in International Human Rights Law" <https://www.ohchr.org/documents/publications/bornfreeandequallowres.pdf>.

US Department of State (2017). "2017 Country Reports on Human Rights Practices: Pakistan" <https://www.state.gov/wp-content/uploads/2019/01/Pakistan.pdf>.

Z, Hussain. (June 21, 2018). Pakistan transgender activists welcome order on ID cards. UCA News. (<https://www.ucanews.com/news/pakistan-transgender-activists-welcome-order-on-id-cards/82622>).

Legislation

OHCHR. (18 December 1979). Convention on the Elimination of All Forms of Discrimination against Women New York. <https://www.ohchr.org/en/professionalinterest/pages/cedaw.aspx#:~:text=On%2018%20December%201979%2C%20the,twentieth%20country%20had%20ratified%20it>.

Pakistan Penal Code (Act XLV of 1860) <http://www.pakistani.org/pakistan/legislation/1860/actXLVof1860.html>.

The Offence of Zina (Enforcement of Hudood) Ordinance (1979, February 9) Ordinance No. VII of 1979 http://www.pakistani.org/pakistan/legislation/zia_po_1979/ord7_1979.html.

The Yogyakarta Principles. (2007, March). Principles on the Application of International Human Rights Law in Relation to Sexual Orientation and Gender Identity http://yogyakartaprinciples.org/wp-content/uploads/2016/08/principles_en.pdf.

Transgender Persons (Protection of Rights) Act 2018 (Act No. XIII of 2018) Transgender Persons (Protection and Rights) Act, 2018 (Act No. XIII of 2018)

United Nations (1948) "Universal Declaration of Human Rights (UDHR)" <https://www.un.org/sites/un2.un.org/files/udhr.pdf>.

United Nations General Assembly (1966, December 16). "International Covenant on Civil and Political Rights" <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>.

United Nations General Assembly (1984, December 10). "Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment" <https://www.ohchr.org/en/professionalinterest/pages/cat.aspx>.

United Nations General Assembly. (1966). International Covenant on Economic, Social, and Cultural Rights. Treaty Series, 999, 171. <https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx>

Sexual Orientation

in Pakistan



GHRD: ECOSOC member since 2013

www.reobd.org