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**The International Politics of Progressive Legislations:
Pakistan's Transgender Persons Protection of Rights Act (2018)**

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Not everything that is faced can be changed, but nothing can be changed until it is faced. - James Baldwin

Abstract

This research examines the phenomenon of progressive legislations passed in otherwise conservative countries. The explanations focus on how the domestic and international avenues of political engagement and activism need to interlap for such legislations to pass. International instances of signaling, deflection and reputation are interlinked with domestic factors such as protests, public contention and local political elite to create the conditions necessary for passing such legislations. The socio-political cleavages in this research focus on the *Khawaja Sira* (Transgender) community in the Islamic Republic of Pakistan. In 2018, Pakistan's Supreme Court issued a decision that would go down in history as a watershed event for the transgender population and the country as a whole. This was seen as the monumental step towards progress for Pakistan's transgender population and claimed by the International Commission of Jurists as globally one of the most progressive laws on transgender community. Pakistan's transgender minority has endured prejudice and isolation since the country's inception. Trans identifying individuals in Pakistan face severe stigmatization and otherness, and have been forced to live on the periphery of society as a result. Over time, both the government and society have seen these individuals and groups as outsiders, deviants, or a threat to the basis upon which society is

constructed. The goal of this research is to question why despite the heavy social cost, a progressive bill was passed by the Pakistani government. Drawing on domestic and international explanations, this research identifies the politics (local and global) behind progressive legislations in non-consolidated, conservative countries. I aim to explore the socio-political and cultural knots using a mixed methods analysis. Quantitatively, the correlation between UN Sexual Orientation and Gender Identity (SOGI) voting records and the LGBTQ+ Global Index conceptualizes the international influence on a state's strategic policies. The work also utilizes qualitative analysis of online content by queer activists, annotation of the passed bill itself and work done by the senators. By choosing the specific case of Pakistan, I also address some common misconceptions about the trans community and hope to encourage conversations around queerness in Pakistan. The findings inspect why the trans bill of 2018 was passed and annotates the effectiveness of the state's international strategic goals

Keywords: Khwaja Sira; Signaling; Reputation Points; Activism; Political Struggle; Pakistan

Introduction

On 23rd April 2023, a leading trans activist reported the horrifying incident of N., a Khwaja Sira Guru (Transgender elder), being refused the right to funeral prayers and burial in their local neighborhood¹. Such instances of societal discrimination are not new to Pakistan where the trans community is uniquely susceptible to issues faced in their day-to-day life. Amidst this

¹ See: <<https://twitter.com/surkhina/status/1650186770624000000>>

atmosphere of severe stigmatization, the case of Pakistan passing a globally-acclaimed progressive Transgender Persons Protection of Rights Act in 2018 becomes extremely striking.

When a country embedded with hostility for queer communities passes a progressive legislation, it raises speculations. Confronting this leads us to question what set of conditions paved a way for the legislative visibility of this marginalized community? Does the bill actually indicate a step of success for the trans individuals or is it just a tactical plot by political elites?

This research aims to answer these questions by analyzing the explanations for progressive legislations in otherwise-starkly conservative countries. By asking *why* the 2018 bill was passed, it aims to investigate the domestic and international phenomenon that merge for such a process of civil liberties. Moreover, I also aim to investigate where the weighing scale leans heavier towards either of the two spheres. The impact is assessed across countries as well as zooming into the particular case of Pakistan. The global trends as well as local cleavages, both are explored.

It is important to note that Pakistan is not a unique example of such occurrences. In fact, there are several examples of countries with hostile or repressive environments passing progressive legislations. The case of Pakistan's transgender rights bill is not an anomaly. It fits within the universe of cases such as the legislative visibility of the *Tongzhi*² community in China, or women getting the right to drive in Saudi Arabia. While the context of each state varies and is specific to its own socio-political climate, the passing of a progressive legislation is a pattern that can be applied and observed in all these contextual varieties.

² What's in a Name? Language, Culture, and Tongzhi Strategies for Social Change by [Fugazzola, Caterina](#)

Aims and Objectives of the Research

The core objective of this research is an exploration between the international and domestic politics that come into play. While elements of local and global both contribute to the passing of the legislation, one segment has more weight than the other. The core hypothesis is that:

Strategic international games have a stronger effect on progressive legislation even if domestic factors play a role in passing progressive legislations

The impact of international and domestic strategic factors are tested using different mechanism hypotheses. The subsidiary aims are observed by firstly interrogating *why the bill was passed*. Internationally, it can be argued that progressive legislations are passed in conservative countries as a way for international signaling, deflection, and gaining reputation points. Domestically, progressive bills could be passed due to a genuine change in the perceptions of transgender community or due to the strategic political atmosphere of local senators and political elites. The second research focus is on the *effectiveness of strategic bill passing*. For this, there is an assessment of the effectiveness of deflection and similar strategies used by conservative countries. The interaction between the two objectives may also be viewed as a theory-building and theory-testing practice.

Pakistan fits within the universe of cases with seemingly progressive legislations passed by repressive countries. The case study of Pakistan will facilitate this research as it helps:

- a) To explore how the transgender community, civil society groups, and human rights defenders advocated for progressive transgender rights legislation in Pakistan.
- b) To examine the international politics of progressive legislation and their impact on Pakistan's transgender rights bill, including international human rights treaties, global pressure, and the government's efforts to improve its human rights record.
- c) To examine why the Pakistani government passed the transgender rights bill and their dedication to marginalized people.
- d) To evaluate the transgender rights bill's impact on transgender discrimination and violence in Pakistan and identify implementation issues.

The selection of this particular case explicates the discriminatory practices that make it difficult for trans individuals to integrate themselves in society. Even states considered to be ‘progressive’ by traditional western standards are discriminatory towards the trans community. This makes it crucial to examine legislation getting passed in what is otherwise a conservative country. There is a need to raise awareness to the invisible complexities that currently exist and suggest ways to tackle them.

Research Design

To trace the incentives of otherwise-conservative countries when passing progressive legislations, this paper uses a mixed methods approach. It uses a multidisciplinary approach for its empirical analysis that incorporates qualitative and quantitative work (Greene et al., 1989). Data triangulation refers to the inclusion of more than one source of data, as understanding a

social phenomenon requires its examination under a variety of conditions (Mathison, 1988). In this section, I discuss the sources of data acquired for this paper, the importance of using quantitative and qualitative data in this research and the limitations associated with it.

The international plotting of countries and introduction to the case study itself makes use of United Nations Sexual Orientation and Gender Initiative (UN SOGI) records³. The data is collected by Arc International that has been tracking the voting records for global advocacy. The voting records track the participation of 193 countries on a total of 113 UN Resolutions. Figures 1 and 1.1 in the case study section track the SOGI global voting patterns in the form of scatterplots. This tracks the international standing of the countries and helps situate the main case of Pakistan and ‘shadow cases’ (Gerring & Cojocar, 2016 as cited by Poast & Urpelainen, 2018, p. 14) namely, China, Saudi Arabia and India. The plots attribute to the need created for the countries to internationally signal progress, which is done by passing progressive legislations.

The research design of this paper draws substantial attention to Bush and Zetterberg’s *Gender Quotas and International Reputation* (2021). For quantitative testing, the research replicates data by Bush and Zetterberg’s *Gender Quotas and International Reputation* (2021). Their goal was to “identify the effect of quota adoption on countries’ international reputations” (Bush & Zetterberg, 2021, p. 331). This is done by using two indicators of women’ inclusion, namely quota adoption and women’s descriptive representation in parliament, which is then correlated with foreign aid disbursements. We expect countries to receive more official development assistance (ODA) when they have adopted a quota in the previous year...” (Bush & Zetterberg, 2021, p. 331). My goal is to examine the relationship between progressive

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><http://arc-international.net/global-advocacy/un-sogi-records-world-database/all-countries-un-sogi-voting-records/> < UN SOGI Records

legislations and international reputations. The data replication tests the relationship between the global scores of Transgender Rights and ODA within a time series of 2016-2020. The data is accessed using F&M Global Barometer of Transgender Rights (GBTR)⁴, focusing on the global correlations as well as specifying on Pakistan. The evidence supports the idea of countries incentivised for better international reputation for better aid.

Next, the data is also used to investigate whether reputation is solely dependent on a country's legislative score of progressiveness. A crucial dichotomy between the public and legal index is explored in this research to show international reputation is not just about law loans. The public treatment of transgender communities is equally important for reputation effect. This suggests that there is still a long way for countries like Pakistan to go for an overall higher global score and reputation. The aim of this finding is to indicate the significance of public progress and increase incentives for creating safe communal practices.

The research examines two core ideas, first dissecting why progressive legislations are passed in repressive regimes and second explores the extent to which it works. These mechanism hypotheses test the heavy influence of international factors over domestic factors. The tests account for a strong influence of international factors dictating a country's legislative policies. They also further the claim for the need to improve public attitudes for a better international reputation.

Empirical analysis of this research is well supported by the quantitative findings, which are furthered with the use of qualitative evidence. The core focus of this research is an in-depth case study of Pakistan. The case of Pakistan offers a detailed account of a primary and secondary

⁴ > <https://www.fandmglobalbarometers.org/gbgr-gbtr-results/> < F&M Global Barometer of Transgender Rights

existing data of domestic and international politics at play. Domestically, accounts of activism and public discrimination against the trans community are highlighted. For safety purposes, the selection of grassroots activism examples are selected with care and concealed under aliases for anonymity. It is important to recognize the un-relentless efforts of the queer community. The sources include secondary excerpts including the integration of art and activism and news coverage. The theoretical testing for domestic explanations are examined by observing the political changes in the 2017-2018 period to account for the role played by political elites. Doing so helps us develop the case of domestic explanations and incentives for passing a progressive trans rights bills in 2018.

While the data findings are significant and maintain steadiness with the hypotheses, it is not free of challenge. A core quantitative struggle has been to acquire the data available within Pakistan and to isolate the effect of quota adoption. Foreign aid disbursements to measure reputation cannot be isolated as a variable. Therefore, the replicated test results are backed by sources such as UN SOGI voting records, and the LGBTQ+ index. Voting records of senators for a comparison of their legislative advocacies were also inaccessible. This was dealt with by media monitoring of Pakistan's national politics within the time frames. Working on this project also calls for future increase in data transparency within Pakistan and more census surveys to be carried out.

In addition to the limitations mentioned above, there are also concerns about the reliability and validity of using secondary data. These issues can arise if the data is collected in a biased or flawed manner, leading to inaccurate or misleading results. For example, if a survey is conducted using leading questions or if respondents are not representative of the population, then the results may not be reliable (Johnson, 1983). Similarly, if official records are incomplete or

inaccurate, then they may not provide an accurate picture of the issue at hand. Furthermore, quantitative secondary data may not capture the lived experiences of transgender individuals. For example, official records may only indicate incidents of violence or discrimination that have been reported to authorities, which may not reflect the true extent of the issue. Similarly, surveys may not fully capture the complexity of transgender experiences or may not be inclusive of all members of the community. As a result, researchers must be cautious when interpreting the data and consider its limitations and potential biases.

Despite these limitations, data used for this study can still be a valuable tool in understanding the international politics of progressive legislation on transgender rights in Pakistan. For example, data on the prevalence of violence and discrimination against transgender individuals can help policy-makers to identify areas where resources should be directed to address these issues. Similarly, qualitative accounts can provide insights into the attitudes and beliefs of the general public towards transgender individuals, which can inform awareness campaigns and other interventions. The use of qualitative sources help counter the potential setbacks of quantitative data. Qualitative data in the form of personal anecdotes, newspaper articles, and secondary interviews provide in-depth insights regarding queer activism and role of domestic politics in passing the 2018 Bill.

In conclusion, quantitative and qualitative data together can provide valuable insights into the international politics of progressive legislation on transgender rights in Pakistan. By using this data, researchers can understand the extent of the issue and identify trends and patterns in society. It is important to recognize the benefits of a mixed-methods approach to consider the broader social, cultural, and political contexts that may impact the experiences of transgender

individuals. By merging quantitative and qualitative research with community engagement, one can gain a more comprehensive understanding of the issue.

Progressivity of the bill

The word progressivity is recurring in this paper. This section facilitates what is meant by the term in reference to the Transgender Persons (Protection of Rights) Act, 2018⁵. The term transgender (shortened to trans) is an umbrella term “used for people whose gender identity differs from what is typically associated with the sex they were assigned at birth” (ILO, 2022). This paper holds this definition when referring to transgender persons and communities. The Act of 2018 defines transgender person as “a person who is:

- (i) Inter-sex (Khunsa) with mixture of male and female genital features or congenital ambiguities; or
- (ii) Eunuch assigned male at birth, but undergoes genital excision or castration; or
- (iii) a Transgender Man, Transgender Woman, Khawaja Sira or any person whose gender identity and/or gender expression differs from the social norms and cultural expectations based on the sex they were assigned at the time of their birth” (Protection of Rights Act, 2018)

The definition of a trans person in the act opens the door for controversial debates catered to contest the idea of progressivity. The term “Khunsa” according to the senate is adopted from Islamic lineage, coined by Ibn Qudamah (Zainuddin & Mahdy, 2016). The definition has been claimed derogatory by trans activists such as M., who

⁵ See: Appendix A

The word they have introduced is Khunsa, aap mein se kabhi kisi ne ye lafz nahi suna hoga iss amendment se pehlay. Ye lafz urdu mein exist hi nahi karta...1700 ke zamane ka afsana hai Imtiaz Ali Taj sahab ka, uss mein bhi Khwaja Sira ka lafz majood hai but pakistan ki fundamental values ko protect karne ke liye ab humein khunsa kaha jaaye ga.

So who is protecting what and who is imposing what? Pakistani culture is a no culture...” (M., 2023)

*Translation: The word they have introduced is Khunsa, none of you would have heard this word before the amendment. This word does not exist in urdu...even a story by Imtiaz Ali Taj Sahib from the 1700s uses the term **Khwaja Sira** (transgender) but to protect the “fundamental values” of Pakistan, we will now be called **Khunsa**. So who is protecting what and who is imposing what? Pakistani culture is a no culture...*

This example prefaces the disparity between interpretation of progressivity. The word *Khunsa* has also been used primarily by right-wing conservatives in order to reinforce the rigid interpretation of transgender individuals.

Despite this refute, the Protection of Rights Act 2018 has been widely supported and is seen as a monumental step towards liberation. This is evident from the goals of the 2022 protest, Sindh Moorat March (SMM), to preserve the Protection of Rights Act 2018. The Act recognises the right of an individual to “self-perceive their gender identity”, see Appendix A. It also guarantees the right to education, employment, healthcare – all the institutions that are pertinent for successful integration in society.

Theoretical Explanations

Civil liberties are inherent to democracies. This makes passing progressive legislation natural for the progression of a democratic state. Ideally, the provision of public services should be reason enough for political parties to participate in human rights advocacy. Realistically the translation differs. This paper defends the idea that *strategic international games have a stronger effect on progressive legislation even if domestic factors interplay in passing progressive legislations*. This low-cost investment strategy's effectiveness depends on public perception and ranking of the country, with higher approval leading to more aid. This paper contributes by assessing the international and domestic factors as illustrated in the table below:

International	Domestic
Signaling	Grassroots Activism
Reputation building	Political Elite and Groups
Low Cost	Historical legacies

This section introduces these ideas using valuable contributions made by the works of Poast and Urpelainen (2018), to pathologize the international signaling methods used by countries. Also in conversation is the scholarly work of Bush and Zetterberg (2021) as well as Gilady (2018) that recognise the reasons behind states opting for international reputation. The literature by these three core texts used to build upon the hypothesis for this research.

The mechanism hypotheses are used to provide explanations for the global pattern of conservative countries passing progressive bills, and signify the role international reasons play in state decision making. The theory is built by dividing the sections into first exploring why the legislations were passed and then assessing the effectiveness. Assessing effectiveness helps test whether the incentives behind passing legislation as a way to gain reputation and deflect from a 'bad image' actually work.

A democratic state is not synonymous to a progressive or liberal state. Oftentimes, democracies face the issue of social disparities and are required to create an equilibrium to satisfy international needs. There is a strong relationship between democracies and the role of International Organizations (IOs). Borrowing from the work of Poast and Urpelainen (2018), it can be observed that "Democratization promotes IO formation and IO membership contributions to democratic consolidations" (Poast & Urpelainen, 2018, p. 7). The linkage of this phenomenon alludes to the fact that "leaders in democratizing polities face a unique problem: they must shift the focus of governance from the distribution of private benefits to the provision of public goods" (Poast & Urpelainen, 2018, p. 7). It can be argued that the interference of IOs creates a necessity for countries to keep checks and balances of the civil liberties they provide. The strong emphasis on providing public goods makes a strong case for why democracies with repressive environments have passed progressive legislations.

The literature distinguishes between the accession of new and existing IO's, arguing that transitional democracies are more likely to opt for new IOs (Poast & Urpelainen, 2018, p. 25). For my hypothesis, I focus on the common denominator, IOs, and their role in states, especially nascent or non-consolidated democracies. The adherence of a state towards an IO holds benefits such as the ability to address unique governance problems faced by democratizing states, interest

alignment and a lack of accession requirements (Poast & Urpelainen, 2018, p. 31). While these reasons are particular to why transitional democracies opt for a new IO, it also helps us understand the heavy reliance of a country on an IO. It helps us understand and argue that the design of the IO is not a one-sided benefit for the state. Rather, it can be viewed as a two-way model where the formation of the IO is interdependent on the policies and framework adopted by the transitory democracy. Pakistan has had a complicated relationship with IO's such as the IMF and World Bank. Several national policies have been catered to satisfy international standards and needs. An example of this is the economic restructuring Pakistan had to do when put in the Financial Action Task Force (FATF) grey list (Dawn, 2022). This encourages liberal policies that would satisfy the 'international eye' at large.

Democracies also have vested interest in political and economic trajectories and their provision resources are channeled as ways to establish legislations that may be deemed 'progressive'. The role of established democracies is extremely influential in the make-up of international norms. The stable democracies provide means to 'overcome capacity gaps' (Poast & Urpelainen, 2018, p. 36-37). Therefore, appeasing stable democracies becomes a prime goal of non-consolidated democracies who pass progressive legislations to fall in the 'good books' of consolidated democracies.

Signaling refers to the rationally calculated decision to alter strategic interactions between actors (Gartzke et al., 2017). Their definition incorporates the work of Morrow (1999) and views it as "the purposive and strategic revealing of information about intent, resolve, and/or capabilities by an actor A to alter the decisions of another actor B to improve the chances that an outcome desired by A is reached when the desired outcomes of A and B are dissimilar" (Gartzke et al. 2017). Another strata of valuable explorations is touched upon by world-polity theorists.

An interesting and apt word carried by Poast and Urpelainen (2018) is the tendency of states to *mimic* globally legitimate or dominant forms... (Poast & Urpelainen, 2018, p. 39). *Organising Democracy* (2018) well summarizes the notion of this mimicking by developing democracies to “signal a desire to become a member of the “established democracy club.” (Poast & Urpelainen, 2018, p. 39). This indicates that countries use a signaling mechanism to internationally developed countries as a way to strengthen their ties. The work of this book heavily influences one of the core hypotheses of this research i.e., repressive countries pass progressive legislations as a way of signaling mechanism. This is further supported by the idea that the IO will be most effective in countries with a history of military rule (Poast & Urpelainen, 2018, p. 63). This idea is specifically well-suited for the case study of Pakistan that has a long trajectory of military involvement in its socio-political spheres.

Explanations from this literature also allow us to inspect not only the international explanations but also the possible domestic reasons for passing progressive legislations. It is explicitly clear that “IOs are not designed to use force or directly enforce policies” (Poast & Urpelainen, 2018, p.186). However, it is also undeniable that they can facilitate *democratic consolidation*, the process whereby democratic governance gradually prevails over nondemocratic forms of political competition (Svolik 2008). The need for an equilibrium argued by Weingast (1997) is further fleshed out, suggesting the critical role played by civil society organizations in reaching that equilibrium (Poast & Urpelainen, 2018, p. 59). Media assistance, support for nongovernmental organizations, and civic education are all measures that IOs can take to support democratic consolidation (Poast & Urpelainen, 2018, p. 59). Elements of these are highlighted when dissecting the role of domestic activism and its coverage to pass progressive legislations. The commitment of grassroots activists is one that has constantly

created a strong resilience to authoritarian reversals and hostile legislation. The recognition of the immense effort and work put in by local activists creates a safety net and builds an international community that helps support their constant plight against the otherwise inhumane conditions set in certain countries.

Reputation is conceptualized as a way to infer a country's image or status (Bush & Zetterberg, 2021, p. 328). Thinking about a country's political proceedings in the context of reputation helps us annotate why certain countries take the steps they do. Bush and Zetterberg (2021) bring forth pertinent literature that ties with observing some of the internationally occurring trends of institutional development. Their focus is specifically on the changing electoral landscape in relation to the gender quotas. This research interplays with Bush and Zetterberg (2021) as it too questions support for a progressive change in an 'otherwise stark' statuesque of inequalities (Bush & Zetterberg, 2021, p. 326). They pose a key question: Do electoral autocracies really improve their reputation through the adoption of gender quotas? (Bush & Zetterberg, 2021, p. 327). The findings explicate the gap in existing literature on international reputation. It can be argued that a state might want to enhance its international reputation for instrumental reasons such as deflecting pressure to democratic and securing foreign aid and other material resources needed for their stability (Bush 2011; Edgell 2017, Bush & Zetterberg, 2021, p. 329). This idea of self-vested interests of political elites and parties is of particular interest to studying the trend of progressive legislations in repressive societies. It helps construct the second hypothesis i.e. progressive legislations are passed as a deflection strategy and a mechanism to better a country's international reputation.

The piece by Bush & Zetterberg (2021) also provides a detailed research design. To accurately assess the effect of quota adoption and international reputation, they highlight two

prime indicators. The first one focuses on women's inclusion, observed through quota adoption and women's descriptive representation in parliament while the second one observes its correlation with foreign aid disbursements (Bush & Zetterberg, 2021, p. 331). The observations of these patterns detect a correlation between an increase in official development assistance (ODA) and greater parliamentary representation of women in the previous year (Bush & Zetterberg, 2021, p. 331). This is an interesting research design as it facilitated the empirical indulgence of this research. The quantitative explanations of this research portray a scatterplot of the international trends of SOGI records and one that specifically focuses on Pakistan. However, as acknowledged by Bush & Zetterburg (2021), gender quotas as an indicator can not be isolated as a single variable affecting a country's economic assistance.

The Price of Prestige (2018) adds an important dimension favoring the impact of international relations in state decisions. Gilady (2018) opens with an interesting use of Rushdie's writing (2008). The imagery of a tower spiked with elephant tusks as a demonstration of power by the ultimate Elephant King aptly portrays the states' need to constantly succumb to the quest of power and prestige (Rushdie, 2008 as cited by Gilady, 2018, p. 5). Viewing consumption as a purely social act vividly illustrates that establishing a social hierarchy involves an intricate signaling game (Gilady, 2018, p. 13). State actors are constantly involved in a signaling game and make consumption a communicative act as a means for achieving specific goals (Gilady, 2018). For example, states such as Qatar hosting the Fifa World Cup show the desire to earn 'social, hierarchical, and positional' prestige (Gilady, 2018, p. 4). As framed by Gilpin (1981), prestige is the everyday currency of international relations. This explains the need for the state to create a reputation for power. While the consumption-based analysis is extremely vital to observe state behavior, this paper furthers that concept by focusing on low cost acts

committed by states to earn international prestige. Passing legislation may come with social costs i.e. providing marginalized groups with legislative visibility, however the chances of that occurring are strong if the bill proceedings are synonymous to its implementation. The findings of this paper offer a unique insight articulating the rationale of actors and their logic of status symbols.

In addition to the role of international relations, the power of domestic politics is one that can not be overlooked. Domestic agenda and politics heavily manipulate state decisions (Hussain, 2011). Focusing on the role of the international is not to take away from the works of scholars like Ikenberry that suggest political formations by hegemonic states going ‘beyond’ the dichotomy of domestic and international by seeking to align the two (Ikenberry, 1996). The role of activism and local politics both are prominent factors in state ruling too. Rather the motivation is to view what incentivises the state most when committing to decisions that fall out of its personal normative discourse.

Coalitions are embedded with immense capability to alter power structures. It ignites the motivation within groups to stand for an oppression they individually, explicitly relate to. Within the LGBTQ+ movement, advocating for the trans community promotes intersectionality and identifies with the imperative overlap of sexuality and gender in power structures. The community resistance relies on the idea of creating a space for all. Grassroots activism has maintained a steady force of liberation despite the constant violence towards them.

Social Movement Theory is an analytical framework that seeks to understand the dynamics and processes of social movements (Choudry, 2015). The major theoretical approaches have been synthesized into collective behavior theory, resource mobilization and political

processes. Using the works of Tarrow and Tilly, it became helpful for researchers to articulate the mobilizing structures used in social movements along with the political opportunities creating either cycles of contention for more movements to rise, or lead to a pressure-releasing outlet for social groups (Staggenborg, 2016). Annotating how actors construct frames and discursive strategies became an important component of discourse analysis (Staggenborg, 2016). Social movement theory posits that social movements arise when people mobilize around shared grievances, interests, and identities to achieve collective action in pursuit of political, social, or cultural change. The theory provides a lens through which to examine the organizational resource, political opportunities, and framing of cause by queer movements. This lens can be applied to the local activism of Pakistan's movement for trans rights.

Civic participation has immense significance in shaping up public opinion however, it would be naive to assume that state decisions are a direct result of social activism. This does not question the strength in activism, rather notes that state's motivations are heavily influenced by those in power positions. This makes the concept of political elite a relevant one to consider. As stated by Blondel and Müller-Rommel (2009), engaging with the concept of the political elite encourages scholars to reflect on the links between institutions and political decision-making. Przeworski (2009) also sheds light on political elites and their possible motives behind voluntarily granting minorities representation rights. This paper ties these ideas by observing the occurrences in Pakistan's political atmosphere.

Empirical Findings and Analysis

The empirical analysis begins by analyzing the correlation between transgender index and foreign aid disbursements, replicated from the work of Bush and Zetterberg (2021). The findings observing the relationship between Official Development Assistance (ODA) with the Transgender Index are branched into the global pattern of all countries and then specific observation of developing countries. The developing countries, lower and middle income countries, are traced from 2016 till 2020. The large variation in results are suggestive of directions that could be consistent with theory or inconsistent with the theory. This can be disentangled by accounting for all the controls. However, given the data accessibility restrictions, the analysis for the second route. Another way to inspect the data requires a careful analysis of cases using qualitative work.

FIGURE 1

Relationship b/w Transgender index and Development Assistance (all countries)

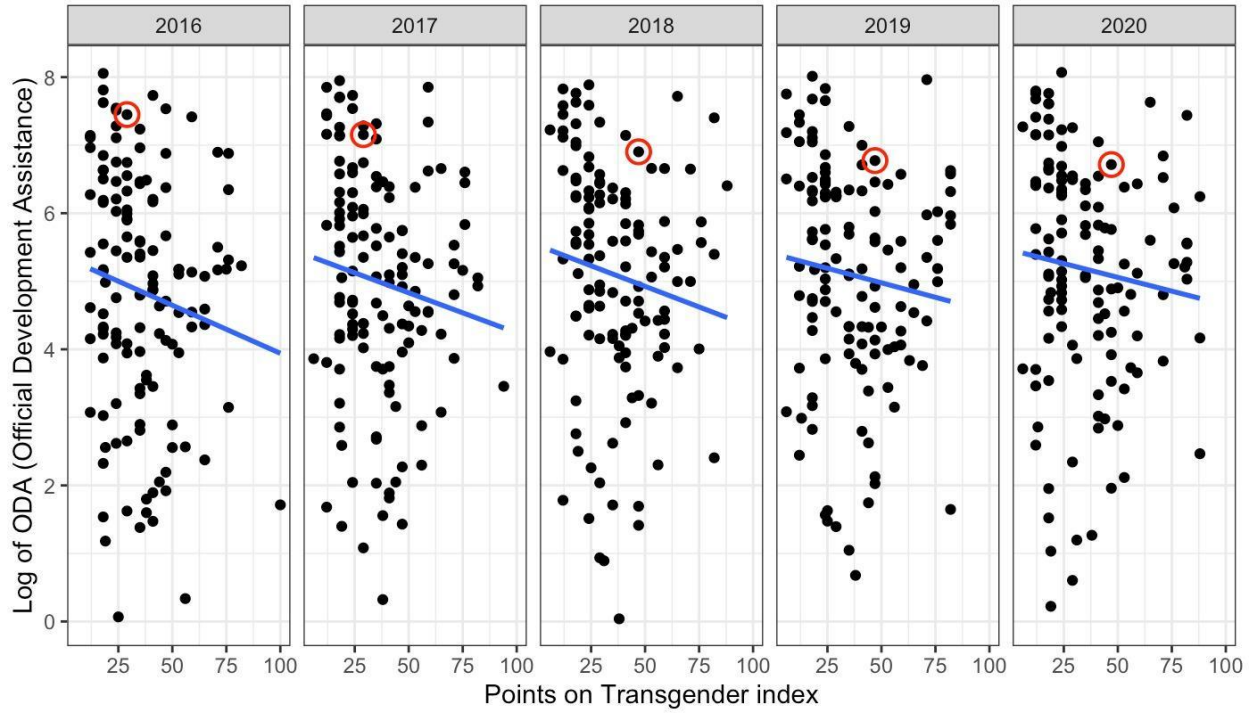
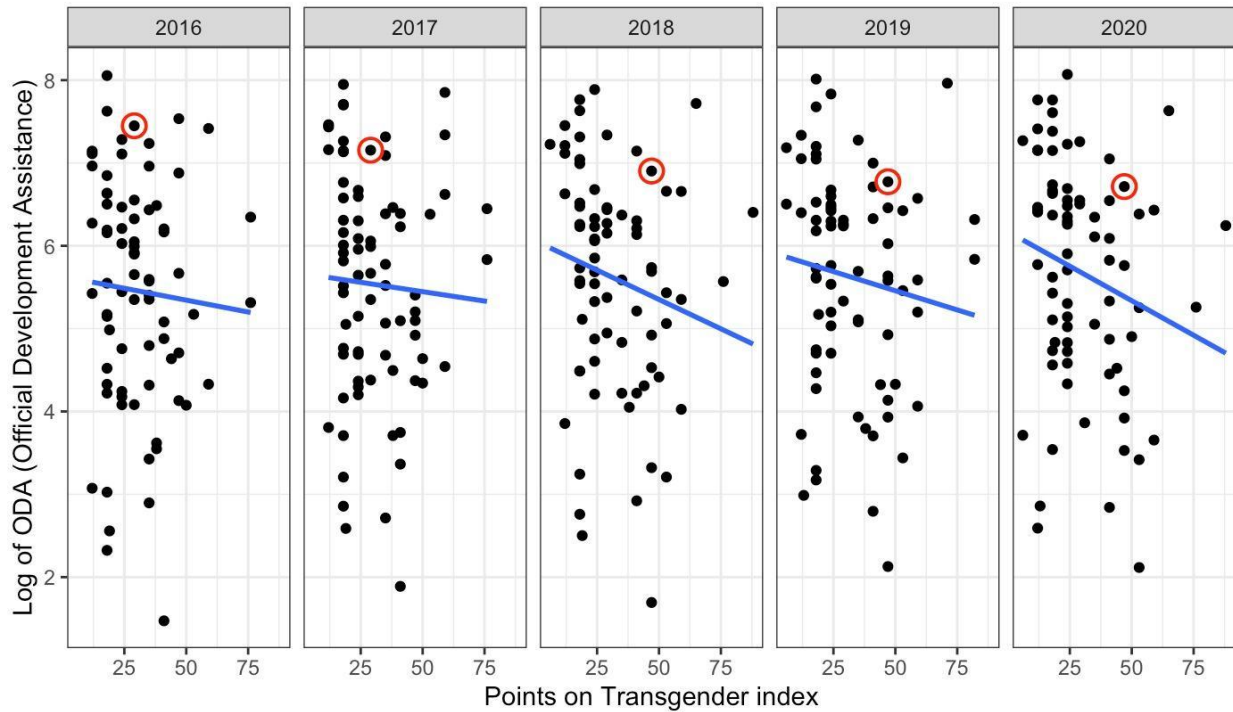


FIGURE 1.1

Relationship b/w Transgender index and Aid (developing countries)



The findings of figure 1 and 1.1 demonstrate a negative relationship between where a country scores on the transgender equality index and aid. This could be plausible for two core reasons. It can be argued that countries that score high on the rights index are relatively wealthier than countries who score lower, reducing their need for aid in the first place. This disparity exists within the developmental index of low income and middle incomes countries too. Countries with significantly higher development index are more likely to have passed pro-LGBTQ+ legislations and have a higher score on the index. It is a safe assumption that due to these traits, they are also less likely to receive more aid simply because their demand for aid is low.

Aid goes to countries with a visible need for it. However, this also means countries in need of aid are less likely to pass progressive transgender laws because of dysfunctional constitutional systems, failed leadership and other bureaucratic setbacks. This interpretation of the variation comes with a core limitation that it does not account for control variables. Due to the omitted variable bias, it can be suggested that the GBTR index and ODA have nothing to do directly with each other and both are driven by the development of the country.

However, another interpretation of this amounts to the case-selection story. Countries who get the lowest aid are the one most likely to try and improve how they look on issues of inequality or discrimination. Countries who already receive higher aid don't have an incentive to score higher on the index. With that logic, it is plausible that countries lower on aid are the ones trying to pass legislation in order to get more aid.

Pakistan, encircled red, scores visibility high on aid but low on rights. As the trajectory of Pakistan is moving to the right, the level of aid remains the same. This makes for an interesting case as it leads to a suggestive correlation between the trans equality index and aid. It can be argued that *repressive countries like Pakistan pass progressive legislations to preserve their aid*

quota. This preservation tactic hints at a correlation between low equality index leading to donor countries and IO's hesitation to provide aid. Hence, the marker between 2017-2019 suggests that the one of the world's most progressive trans rights bill was passed by Pakistan in 2018 to ensure there is no reduction in aid provision.

To support the hypothesis, this research uses voting records from United Nations Sexual Orientation and Gender Identity (UN, SOGI). Crediting to the data collection by Arc International, there is a record of countries and their voting positions. Figures 2 and 2.1 are plotted displays of these voting trends.

FIGURE 2: Countries with a voting record of ‘Yes’ in UN SOGI records

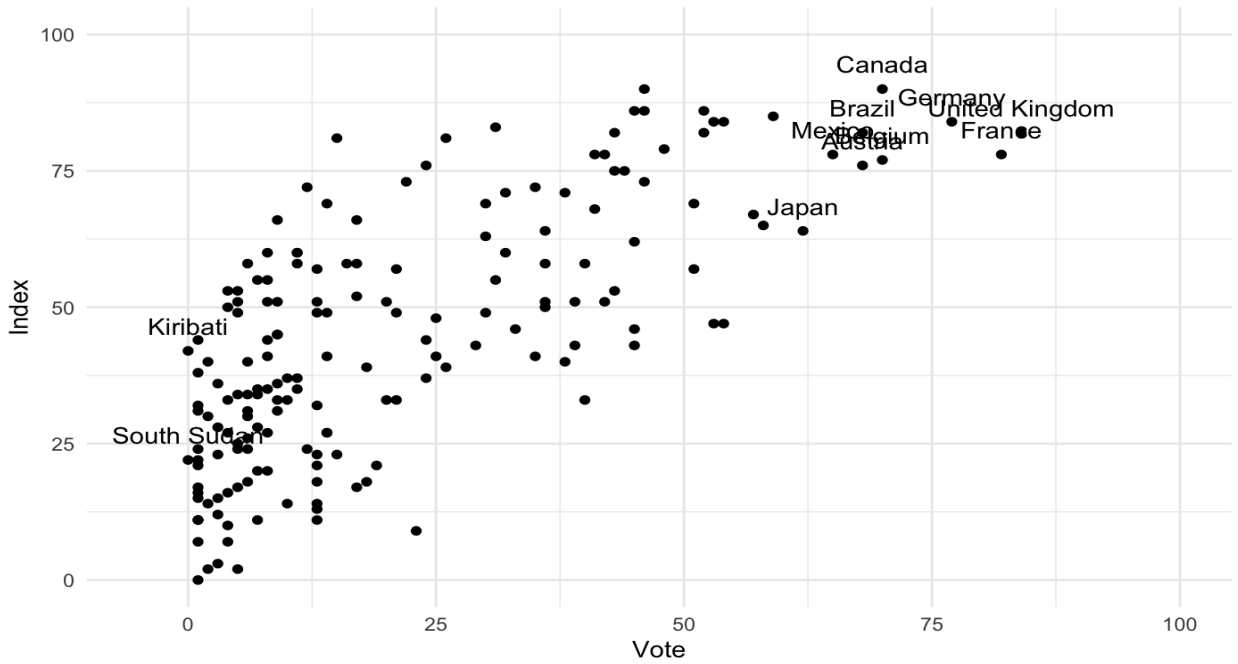
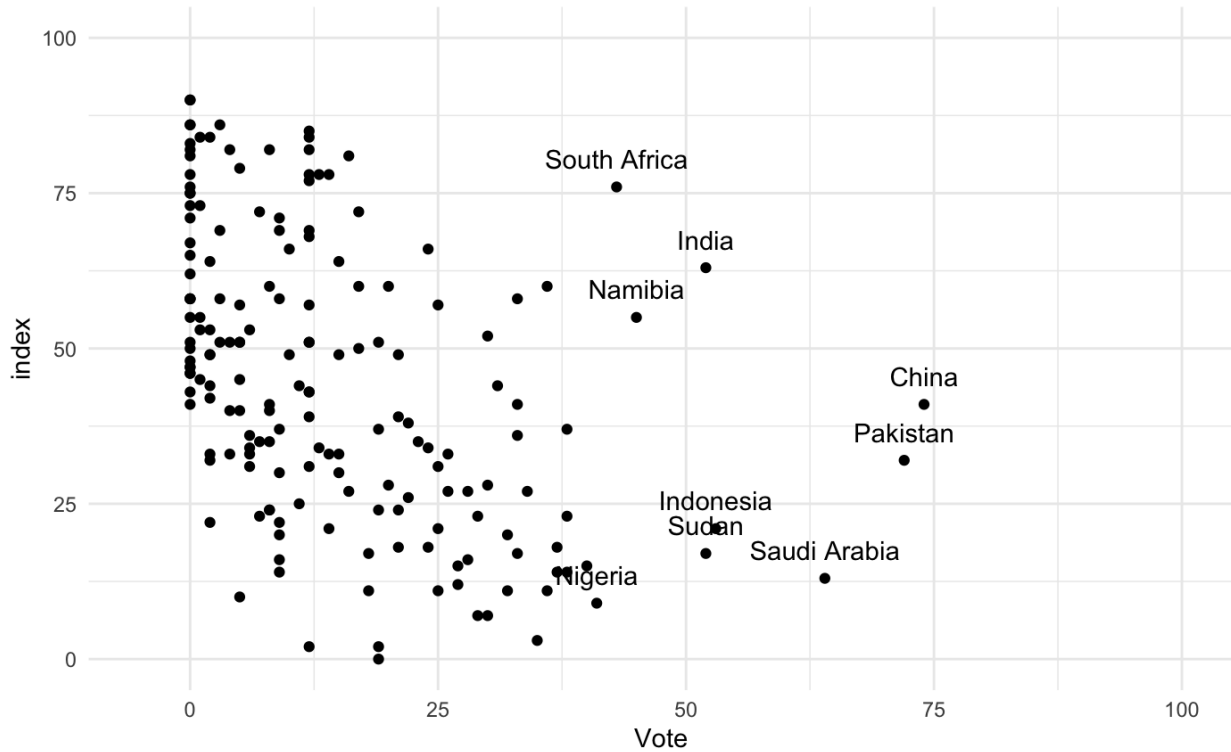


FIGURE 2.1: Countries with a voting record of ‘No’ in UN SOGI records



Strategic International Game

Signaling

The plot reaffirms the international standing of countries. Figure 2 tests and matches the idea of countries that fall high on the development index ultimately pass progressive legislations. Contrarily, Figure 2.1 shows countries that have a record of voting against SOGI resolutions, and are evidently countries starkly low in the human rights index. This will be supported by diving into a “shadow case” (Gerring & Cojocaru, 2016 as cited by Poast & Urpelainen, 2018, p.14). They will be used as a brief example to illustrate repressive countries passing progressive legislations as a way to internationally signal to their allies, further strengthening the validity of this argument. Examining this case also reveals the necessity for case-selection studies to recognize the contextual differences and influence of international strategies in each case.

Saudi Arabia (KSA): Women to drive movement

The Women to drive movement in KSA launched back in the 1990s, however it was not until June of 2018 that women were finally granted the right to drive. The inarguable fact is that women rights activists have played an instrumental role in advocating for a space they rightfully deserved. The lift of a ban is an extremely positive development in social and political context for KSA. However, the state’s motivation behind lifting the ban can be for their self-vested interests. The Saudi regime holds an international reputation for its extreme gender segregation and patriarchal norms. This restrictive atmosphere was impacting KSA’s image in platforms such as the UN and prospects of foreign investments. Advocates of women’s right in KSA have also

raised concerns about the right to drive only benefitting privileged classes, and the ongoing violence against women. According to (Al-Khamri, 2018), lifting the ban was an incentive to boost the economy by attracting foreign investments and reducing the heavy reliance on oil export. It would also signal to KSA's western allies their commitment for progressive development. All this would contribute to Saudi Arabia meeting its Vision2030⁶, which promises the country economic prosperity.

Similarly, it can be argued that Pakistan too is using progressive Trans rights bill to signal to other established democracies the desire to improve its equality index. As the SOGI UN voting records show, developed countries have a trend of scoring high on the equality index by voting 'Yes' on the resolutions. This active engagement is in line with the stance taken by IO's such as the UN and aid-providing organizations. Before the passing of this bill, there was an increase in violent and discriminatory attacks against marginalized communities, especially the trans people of Pakistan. It can therefore be argued that the bill was simply a strategic legislative move to signal to the core donor countries such as the US and IO's such as the UN that the country was personally invested in fighting against such atrocities. Doing so would ensure an international standing and change the media coverage of Pakistan from a negative to a momentary positive light. This can be further supported by the UNAIDS commending Pakistan for passing such a legislation⁷ and media outlets such as *GlobalCitizen*⁸ portraying Pakistan in a positive light.

⁶ KSA's Vision2030 <<https://www.vision2030.gov.sa/>>

⁷UNAIDS congratulating Pakistan on its progressive bill
<https://www.unaids.org/en/resources/presscentre/pressreleaseandstatementarchive/2018/may/pakistan_transgender_bill>

⁸ GlobanCitizen Report:
<<https://www.globalcitizen.org/fr/content/pakistan-transgender-rights-bill-nonbinary/>>

Reputation building and Deflection

Building off from the idea of countries signaling to their allies, countries with repressive environments could also pass progressive legislations to improve their international reputation and deflect from otherwise-stark reforms. Ratifying human rights treaties could be an incentive for countries to gain international rewards. The findings of this research are mixed due to the multiple mechanisms and variables at play. However, it contributes by suggesting that countries like Pakistan may not have passed a progressive bill to secure more benefits, rather to preserve their reputation which was increasingly threatened by the rise in gendered attacks.

The Trans bill of 2018 itself is an interesting example as it goes *beyond* what is required to pass progressive legislations. Not only does it provide the trans community the right to inheritance, work, and education but it also gives them the right to change their gender on national identity cards. Despite the possible backlash by extremist groups, Pakistan passed this bill as a way to make an international mark and gain reputation. Simultaneously, it can also be argued that the bill was passed as a way to deflect from an increase in violent attacks against trans people in Pakistan. This deflecting strategy can be observed as a mechanism to appear “more democratic and modern to international audiences” (Bush & Zetterberg, 2021, p. 337). This legislative bill can be seen as a way to preserve their loans and aid from international communities and thus aligns with the hypothesis, i.e., the trans bill 2018 was passed for strategic international reasons.

The deflection is also visible from the focus on trans-specific legislations rather than being inclusive of the LGBTQ+ community at large. Global indexes on equality demonstrate a wide gap between Pakistan’s standing on trans rights in comparison to other queer identities. The

rationale for this further expanded when dissecting the socio-political and historical context of Pakistan, but makes for a strong suggestion that the country by passing this bill is deflecting from the excessive marginalization of other queer communities.

Low-Cost

There is already existing literature on states going out of their way and making ‘conspicuous consumptions’ as a way to gain international prestige (Gilady, 2018). The case of legislative strategies makes it more interesting due to the fact that cost involved is really low. This explains the trend in Fig 2.1 as Pakistan is one of countries scoring least in progressive sexual orientation and gender-identity based resolutions. There was a space created for Pakistan to improve its existing situation. This was done by passing a bill that requires minimum funding but still gets maximum international rewards. This is also evident from the core distinction between bill passing and bill implementing. As discussed through the paper, the extent to which the trans community faces violence and discrimination is at an all time high. This discrimination seeps into bureaucratic practices of issuing national identity cards at NADRA or to find careers in work spaces. Passing the trans bill of 2018 displays the state incentives for gaining positive limelight at a very low expenditure.

Domestic

In 2021, a local citizen Rashid Khan reported a queer Pakistani band for holding an “obscene”

photoshoot in Islamabad⁹. The band members received severe transphobic backlash along with police authorities launching search warrants and arresting one of the artists. A major cause of this moral panic amongst the locals was because a male-presenting artist chose to express themselves void from gender constructs. This incident took place only three years after Pakistan passed the Transgender Persons Protection of Rights Bill (2018), which gave one the freedom to self-express their gender. In assessing the merits of domestic versus international factors, the empirical analysis focuses on the local politics and then highlights the international incentives behind conservative states passing progressive laws.

In recent years, the transgender community of Pakistan has faced significant social and political challenges. Colonialism's legacy forms the basis of these hurdles while the sway of conservative religious groups has served to exacerbate these longstanding problems of discrimination and prejudices. From pre-colonial times, when transgender people in the Sub-Continent were well revered, to the present day, where they face widespread discrimination and violence, this literature review will trace their history. The background for this case will examine the challenges they face, such as the side-effects of colonialism and the hostile participation of extremist organizations. All this is necessary to understand *why* the progressive bill was passed in 2018. The research then goes to test the effectiveness of the bill and decode that it was after all an international strategic game for the state.

Grassroots Activism

Pakistan's inception is a product of resistance. It comes as no surprise that when civil liberties are contested, coalitions rise in protest. The preference of change over status is well reflected in

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<<https://medium.com/@sohanisar/is-arresting-a-model-over-obscene-photoshoot-a-panacea-for-our-ills-fd9cc9bf99a9>> Reported by Soha Nisar, 2021

theory and praxis. The urgency towards movement has been built by activists, poets and writers who have raised their voice on the acceptance of gender fluidity. Within the community there is strong resilience and advocacy despite the deterrences. The continued efforts by the queer activists must be recognised more despite suppression and opposition from other domestic actors. This research commends the efforts made through grassroots activism while also bringing to attention the grim reality of the state's strategic interests when passing legislations that feel like a monumental mark. An excerpt borrowed from Moraga and Anzaldúa's *This Bridge Called My Back*:

A theory in the flesh means one where the physical realities of our lives –our skin color, the land or concrete we grew up on, our sexual longings — all fuse to create a politics born out of necessity ... We are interested in pursuing a society that uses flesh and blood experiences to concretize a vision that can begin to heal our “wounded knee” (Moraga & Anzaldúa 1981 as cited by Amideo, 2021)

Four years after the bill passed, Pakistan witnessed its first ever rights protest carried by the transgender community (The Express Tribune, 2022). The Khwaja Sira conducted this peaceful protest with displays of songs, dance and speeches. The march held an integral aim of remembering the names of trans women that had been murdered and suffered from hate crimes. The slogan “*Zan, Zindagi, Azadi*” (Woman, Life, Freedom) echoes the community taking their rightful space in public and to respond to the backlash by parties such as Jamaat-e-Islami opposing the 2018 bill.

Each ligament of action converses to form a set of relations with each other. Contribution of this research can be viewed in a multi-tiered way. It can simply be a recognition of the existing work done by actors for progressive legislations, and explicates a curiosity about how to act in continuity. To highlight the significance of annotating the existing state behaviors case-by-case and steer towards a way for resolving this.

Historical Legacies

In recent years, there is a strong reclaiming of cultural legacies. Adapting to the aftermath of colonialism and seeing through the state tactics of face-saving by seemingly progressive legislations, there is an accentuation of claiming (and re-claiming) their positionality. The integration of arts and activism has created a medium where transformation is interlinked with increasing visibility of the experiences shared by the trans community.

Derrida says that a word is not born with eternal, fixed identity. This lack of fixity, residue of sound in another is a ‘trace’ (Chaudhuri, 2021). Resonation with this ‘trace’ is ingrained in the ethos of trans activism. The term under explicit reference here is *Khwaja Sira* (transgender). Over time, the reverence associated with this term has changed. In the precolonial times, Khwaja Sira were valued and respected by the society. Change post-colonialism...Contemporary trans activists have consistently been reclaiming the world, ascribing an identity that captures the essence of societal status they deserve. This fluidity is embodied in their mobilization, organization, and daily acts of activism.

The taxonomy of local politics can be segmented into an interior ‘us’ and exterior ‘them’. This divide is inscribed with cultural and religious extremism. However, this distinction is not

hardlined. The blurred nuances make it difficult to detect state intentions. This paper contributes by exploring those intentions (read: strategic moves) of the state.

The term *Khwaja Sira* originated in the Mughal era and is now used as an umbrella term for all-gender encompassing variants (Mehtab, 2017). Before applying the explanations provided above, it is important to recognise the history of the transgender community. Doing so helps us better grasp the socio-political contexts and apply explanations to the region. For a very long time, Pakistan has taken criticism for its treatment of religious minorities, women, and other vulnerable peoples. Transgender persons in Pakistan have been vulnerable to prejudice, violence, and social isolation for quite some time. Despite significant legal precautions, such as the acknowledgement of a third gender on official papers, transgender persons in Pakistan continue to experience severe barriers in gaining school, job, healthcare, and other critical rights. In view of the aforementioned, the approval of the transgender rights law in Pakistan in 2018 was a major breakthrough toward the recognition and protection of transgender rights in the country. The law offered transsexual individuals a range of safeguards and rights, including the ability to inherit property, freedom from discrimination in the job and education, and medical care.

Pakistan's transgender community has worked with civil society groups and human rights campaigners to achieve legislative safeguards and raise awareness of their struggles. The bill was passed after a long period and much work. Pressure from outside sources to improve Pakistan's human rights record affected the legislation and its involvement in international human rights accords. Pakistan has transgender protection laws, although they are not fully implemented. Some worry the government will enforce transgender safeguards because of discrimination and violence. Within this background, this study seeks to provide a complete understanding of the global politics of progressive legislation, the role of advocacy and activism, and the intentions of

the Pakistani government in implementing the transgender rights bill. The study intends to produce results and recommendations for the promotion and protection of the rights of marginalized people in Pakistan and throughout the world by investigating the challenges to and possibilities provided to encourage legal implementation.

Trajectory of the Transgender Community in Pakistan Pre-Colonial Times

As discussed by Nogueira (2017), the ‘Global South’ states have played an important role in constructing new international norms and principles. The role of Khwaja Sira has always been valued and honored for their contributions to society. They were regarded as respected figures in society, especially capable of bestowing blessings on infants and newlyweds. They were accomplished dancers and performers during the Mughal Empire, and they frequently performed for the imperial court (Gul, 2018). They were also regarded as spiritual leaders and healers, and their blessings were sought in exchange for good fortune and riches. During this period, the transsexual community received some societal recognition and respect. Their gender identification was not stigmatized, and their contributions to society were respected. Their social position, however, began to shift with the onset of colonization in South Asia.

Colonial influence led to the shift in state and consequently societal perceptions of the transgender community. They were viewed as a danger to social order by British colonial authorities, who enacted laws and regulations that criminalized their activity and isolated them from society (Gul, 2018). Because of the colonial government's emphasis on binary gender norms and heterosexuality, anyone who did not comply with these standards were marginalized

and criminalized. Unfortunately, the irreparable colonial residues still stagnate Pakistani society by stigmatizing trans identities.

The transgender community endured societal shame and prejudice in addition to legal persecution. They were frequently forced to live in remote villages with little access to education, job, or healthcare. Colonialism had a long-lasting impact on Pakistan's transgender minority, and its consequences are being felt today. Today, Pakistan's transgender community faces severe obstacles. They are frequently denied fundamental human rights, such as access to education, healthcare, and work, and they are subjected to pervasive discrimination and violence (Selby, 2018). They are also subjected to arbitrary police arrest and incarceration, as well as violence from both state and non-state actors.

Opposition to Transgender People by right-winged extremist groups are a major source of hostility to the transgender minority in Pakistan. These organizations see the *khwaja sira* population as a threat to conventional cultural and religious standards, and they frequently campaign for transgender prosecution (Fazi & Bibi, 2021). Extremist groups such as Tehreek-e-Labbaik Pakistan (TLP) ascribe negative connotations to the *khwaja sira* community and allege them to be prone to participating in immoral activities. TLP is also a key opposition of the 2018 Bill as they feel that the group should be stigmatized and expelled from society.

Conservative and extremist organizations have also been skeptical of recent initiatives to defend the rights of transgender persons in Pakistan. The enactment of the Transgender Persons (Protection of Rights) measure in 2018 was greeted with criticism from these groups, who said that the measure went against traditional cultural and religious values (Khan, 2020). They have also been dismissive of moves to enhance representation of transgender persons in politics and

other public spaces. The criticism experienced by the transgender population in Pakistan is not restricted to conservative religious organizations. They also experience prejudice and violence from other parts of society, including the police, healthcare professionals, and employers (Nisar, 2016). Discrimination in these areas can make it difficult for transgender people to obtain basic services and fully engage in society.

Gender and Sexual Orientation-based Violence

The *Khwaja Sira* of Pakistan face a high risk of violence, with physical and sexual assault being common occurrences. This violence is often directed towards those who are visibly identifiable as transgender, particularly transgender women (Nisar, 2016). Due to their perceived violation of gender norms, transgender women are especially vulnerable to gender-based violence, including murder. In addition to facing violence from individuals, transgender individuals also face institutional violence from state actors, including law enforcement agencies (Saddique et al., 2017). Despite the existence of laws protecting transgender individuals from violence and discrimination, law enforcement agencies often fail to enforce these laws, or worse, are perpetrators of violence against transgender individuals themselves. As a result, transgender individuals are often unable to access justice or protection from the state, further marginalizing and disempowering them.

The high levels of violence against transgender individuals in Pakistan have serious consequences on their health, well-being, and ability to participate fully in society. Transgender individuals who experience violence are more likely to suffer from physical and mental health issues, including depression, anxiety, and post-traumatic stress disorder (PTSD) (Hussain, 2019).

The trauma of violence can also lead to social isolation, job loss, and other negative consequences that further marginalize transgender individuals.

Efforts to address the violence faced by transgender individuals in Pakistan must involve both state and non-state actors. State actors, including law enforcement agencies, must be held accountable for their failure to protect transgender individuals from violence and discrimination. This requires better enforcement of existing laws and policies, as well as a commitment to challenging traditional gender norms and addressing the root causes of discrimination and violence against transgender individuals. Non-state actors, including civil society organizations and human rights defenders, also have a critical role to play in raising awareness about the challenges faced by the transgender community and advocating for their rights. By working together, state and non-state actors can create a more enabling environment for transgender individuals in Pakistan, one where they can live with dignity and respect.

Role of political elites in the presence of religious and cultural opposition

According to Saddique et al. (2017), transgender individuals in Pakistan face not only discrimination and violence from state actors and individuals but also opposition from conservative religious and cultural groups. These groups view transgender individuals as immoral, unnatural, and sinful, based on traditional gender norms deeply ingrained in Pakistani society and reinforced by religious authorities. These groups have actively opposed efforts to improve the status of transgender individuals in Pakistan, and their opposition has had real consequences for the community (Hussain, 2019). For example, the Council of Islamic Ideology has opposed transgender rights legislation, arguing that it is against Islamic teachings (Gul,

2018). Similarly, some conservative cultural groups have organized protests and campaigns against transgender individuals, arguing that they are a threat to traditional gender roles and family structures.

In addition to facing opposition from religious and cultural groups, transgender individuals in Pakistan also face institutional discrimination in areas such as education and healthcare. Discrimination in these areas can make it difficult for transgender individuals to access basic services and participate fully in society (Suzanne, 2016). In the education system, transgender individuals face harassment and discrimination from teachers and classmates, leading to high dropout rates and low levels of education attainment. Similarly, in the healthcare system, transgender individuals may face discrimination from healthcare providers and may be denied access to necessary medical care. Proposed amendments to the 2018 bill such as establishing medical boards to conduct detailed exams and advise what gender a person should be signifies the dehumanizing sentiments radical right holds for the khwaja sira (Zaman, 2022). This can have serious consequences for the health and wellbeing of transgender individuals, particularly those who require hormone therapy or gender-affirming surgeries.

Amidst this suffocating atmosphere, the passage of the Transgender Persons Protection of Rights Act in 2018 was an important step towards protecting the rights of transgender individuals in Pakistan. The law recognizes the right of transgender individuals to self-identify and protects them from discrimination in education, employment, healthcare, and other areas. However, there is still much work to be done to ensure that transgender individuals are able to fully participate in society and enjoy basic human rights.

The efforts made in 2018 differ from the current status quo of Pakistan's transgender community. In 2022, the bill has been suffering from attacks by extremist groups as well as the political party members. It is worth tracing the trajectory of Pakistan's political events as it helps enrich our grasp on the rationale for members passing the bill. 2016-2018 were turbulent years for Pakistan's democratic standing. The infamous Panama papers leak case led to the disqualification of then prime minister, Nawaz Sharif, of Pakistan Muslim League-N (PML-N). The position was temporarily held by Shahid Khaqan Abbasi till the term elections which were to commence in 2018. Meanwhile, the senators primarily advocating for the Transgender Persons Protection of Rights Act 2018 were Nasreen Jalil from Muttahida Qaumi Movement (MQM) and Rubina Khalid from Pakistan People's Party (PPP). A timeline helps trace the political trajectory of Pakistan's politics, highlighting the key events relevant to inspect the domestic ambitions of passing this bill.

Firstly, the determined advocacy for this bill could simply be a sheer commitment to human rights and with the collaboration of activists, a step towards inclusivity and social justice. The Act of 2018 tackled issues that were hindering any chance of a better quality of life for the transgender community. The right to change their gender based on personal choices and right to work being the key ones. Knowing the unique challenges they are susceptible to requires expertise insights. The 'progressiveness' of the bill indicates the senators seeking guidance from activists, legal experts and stakeholders who were either subjected to or were committed to the causes. These indicators reveal the bill passing for a good cause.

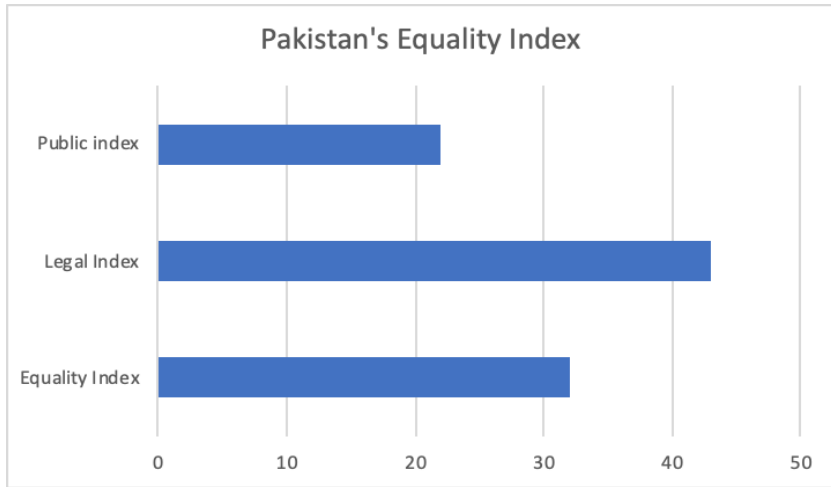
Another explanation for this however takes into account the social and political cleavages of Pakistan. The violence and discrimination against the transgender community, as discussed, has been common practice. Advocating for this bill and passing it in May before the general

elections in July could be an attempt by the party members at large to increase their political representation and enhance the party's platform. Pakistan's struggling image of terror-financing due to the Panama papers leak case may have also fed into the motives of the senate collectively passing a progressive legislation. This circles back to the idea of the international strategic motives outweighing the domestic.

Continued efforts to raise awareness about the challenges faced by the transgender community, as well as initiatives to improve access to education, employment, and healthcare, are needed to ensure that the transgender community in Pakistan is able to live with dignity and respect. It is important to challenge traditional gender norms and address the religious and cultural opposition to transgender rights. This requires a concerted effort to hold state actors accountable for their failure to protect transgender individuals from discrimination and violence. It also requires advocacy and education to change societal attitudes towards the transgender community.

The domestic explanations allude to the importance of case-selection of Pakistan. It signifies that that to inspect a country's strategic moves, accounting for local cleavages is crucial. However, it also reaffirms that state actions are primarily driven due to international validation. As observed in Figure 3, Pakistan's equality index breakdown according to LBTQ+ Index. There is a sharp difference between the public and legal index. Since the Equality index is the sum of public and legal indexes, it is highly plausible that Pakistan viewed this legislation as an opportunity to increase its international standing in the global equality index.

Figure 3: Data extracted from LGBTQ+ Index



Alternative Explanations

A primary caveat for this analysis is one that I at times quite align with. It borrows from the work of Finnemore and Skikink's (1998) life cycle of a norm. In *International Norm Dynamics and Political change* (1998), they focus on the three stages of norms: norm emergence, norm cascade and norm internalization. The idea essentially argues that the three stages over time states adopt certain norms out of international pressure. This concept is tied with Keck and Skikinnk's 'boomerang effect' (1998) and Transnational Advocacy Networks (TANs); it can be argued that progressive legislations are passed due to international institutions and norms. However, this explanation can be counter-argued because the element of LGBTQ+ community is not a norm that is taken for granted and there is resistance in western countries as well. It has not yet reached the stage of norm cascade. There may be momentum for such a norm to emerge in future but the resistance against it is far too strong.

Another caveat with the study's focus on the international politics of progressive legislation on transgender rights in Pakistan is that it may overlook the broader social and cultural factors that contribute to the marginalization of the transgender community. Therefore, a more comprehensive analysis of the historical, cultural, and social factors that shape the experiences of transgender individuals in Pakistan would be useful. Finally, the study's analysis of quantitative data is limited by the availability and quality of existing data sources. Therefore, the findings should be interpreted with caution and may not accurately reflect the experiences and perspectives of the transgender community.

Research Significance

Researching a country's motivations for certain policies is important. The need for this intensifies when the research is conducted on countries that are otherwise underdeveloped and the issues focused on are generally an overlooked theme. This paper contributes by focusing on the contextual factors that impacted Pakistan's decision to pass its 2018 trans bill. It also brings to light that trans individuals are uniquely susceptible to challenges encompassed in their living conditions. Recognition of these hurdles holds high intrinsic value in itself. The contribution goes beyond policy and hopes to encourage scholarship investment in political decisions impacting trans communities.

The significance of this study also lies in its potential to inform policy-makers, researchers, and advocates working towards advancing the rights of transgender individuals in Pakistan and beyond. By providing a comprehensive analysis of the international politics of progressive legislation on transgender rights, the study can help to identify the factors that have contributed to the marginalization of the transgender community and inform strategies for addressing these issues. The research can also provide insights into the challenges and opportunities of implementing progressive legislation on transgender rights in a complex political and social context. By examining the factors that led to the passage of the Transgender Rights Bill in Pakistan and the challenges that remain in enforcing it, the study can inform similar efforts in other groups and regions. Additionally, the study can contribute to a broader understanding of the intersection of gender, sexuality, and politics in Pakistan and other contexts. By highlighting the ways in which political, cultural, and social factors shape the experiences of transgender individuals, the study can inform broader discussions around gender and sexuality in society.

Way Forward

Despite facing significant challenges, the transgender community in Pakistan has seen some recent improvements in their status within the country. The Transgender Persons (Protection of Rights) Act passed in 2018 is a significant step towards protecting the rights of transgender individuals in Pakistan. This act recognizes the right of transgender individuals to self-identify and provides protection against discrimination in education, employment, healthcare, and other areas. However, the struggle for transgender rights in Pakistan is far from over. Although the Transgender Persons Act is an important milestone, implementation and enforcement of the law is still a major issue (Terman, 2023). Many members of the transgender community are still denied basic human rights and face discrimination in various aspects of their lives. Furthermore, despite efforts to raise awareness about the challenges faced by the transgender community, there is still a lack of understanding and acceptance of the community in the broader society.

To ensure that transgender individuals in Pakistan are able to fully participate in society and enjoy their basic human rights, continued efforts are required. These efforts should include initiatives to improve access to education, employment, and healthcare for transgender individuals (Jain & DasGupta, 2021). Education is particularly important, as it can help to challenge traditional gender norms and promote acceptance of diversity. Additionally, there is a need for further advocacy and awareness-raising campaigns to challenge the societal stigma and discrimination faced by the transgender community. Furthermore, it is crucial to address the root causes of discrimination and violence against transgender individuals in Pakistan. This includes challenging traditional gender norms and addressing the religious and cultural opposition to transgender rights. It also requires holding state actors accountable for their failure to protect transgender individuals from discrimination and violence.

Conclusion

The international politics of progressive legislation on transgender rights in Pakistan has been shaped by a complex set of factors, including cultural norms, political power dynamics, and the experiences of the transgender community. While the trajectory of the transgender community in Pakistan has been marked by marginalization and exclusion, recent progress in recognizing and protecting their rights, including the passage of the Transgender Rights Bill, has provided hope for a more equitable future. The literature review highlights the cultural and historical context of transgender identities in South Asia, and the ways in which colonialism and globalization have contributed to the marginalization of the transgender community. The transgender community in pre-colonial South Asia was highly respected and played significant roles in the cultural, spiritual, and political life of the region. However, colonialism brought with it a Western binary view of gender that did not recognize or accept the diverse gender identities and expressions present in South Asian societies. This led to the marginalization and stigmatization of transgender individuals in the region, and the rise of discriminatory laws and policies that continue to impact them to this day.

Despite these challenges, the transgender community in Pakistan has been resilient and continues to fight for recognition, acceptance, and equal rights. Recent progress has been made in recognizing and protecting the rights of transgender individuals in Pakistan. In 2009, the Supreme Court of Pakistan recognized the right of transgender individuals to self-identify and directed the government to issue national identity cards that reflect their gender identity. This was a significant step towards recognizing the rights of transgender individuals and challenging the discriminatory laws and policies that have historically marginalized them. In 2018, Pakistan passed the Transgender Persons (Protection of Rights) Act, which provides legal protections and

recognition to transgender individuals, including the right to education, healthcare, employment, and inheritance. The law also establishes a National Council for Transgender Persons, which is tasked with addressing the issues faced by the transgender community and promoting their welfare.

However, despite these significant steps, the transgender community in Pakistan continues to face significant challenges. Discrimination, harassment, and violence against transgender individuals remain pervasive, and access to education, healthcare, and employment remains limited. Additionally, the implementation of the Transgender Persons (Protection of Rights) Act has been slow, with many transgender individuals still facing significant barriers to accessing their rights under the law. To gain a deeper understanding of the experiences and perspectives of the transgender community in Pakistan, the study will utilize quantitative data. The analysis of this data highlights the challenges faced by transgender individuals in Pakistan, including discrimination, violence, and exclusion from mainstream society. The data also highlights the resilience and strength of the transgender community in the face of these challenges, and their commitment to fighting for their rights and equality.

The study identified the political and social factors that contributed to the passage of the Transgender Rights Bill, as well as the challenges that remain in implementing and enforcing it. The passage of the bill was the result of years of advocacy and activism by the transgender community in Pakistan, as well as support from international organizations and allies. The bill is a significant step towards recognizing the rights of transgender individuals and challenging the discriminatory laws and policies that have historically marginalized them. However, the implementation of the bill remains a challenge, and continued advocacy and engagement with the transgender community will be necessary to ensure its successful implementation.

Overall, this research provides valuable insights into the intersection of gender, sexuality, and politics in Pakistan and other contexts. The study's findings have implications for policy and practice, as well as academic discussions, and can inform efforts to advance the rights and well-being of transgender individuals in Pakistan and beyond. The research underscores the importance of continued advocacy and engagement with the transgender community to address the challenges they face and build a more inclusive and equitable society.

Bibliography

Al-Khamri, H. (2018, June 24). *Why did Saudi Arabia lift the driving ban on women only now?*. Women's Rights | Al Jazeera.

<https://www.aljazeera.com/opinions/2018/6/24/why-did-saudi-arabia-lift-the-driving-ban-on-women-only-now#:~:text=First%20of%20all%2C%20the%20lifting,Saudis%20have%20long%20relied%20on>

Amideo, E. (2021). *Queer Tidalectics: Linguistic and sexual fluidity in contemporary black diasporic literature*. Northwestern University Press.

Blondel, J., & Müller-Rommel, F. (2009). Political elites. *The Oxford Handbook of Political Behavior*, 818–832. <https://doi.org/10.1093/oxfordhb/9780199270125.003.0044>

Bush, S. S., & Zetterberg, P. (2020). Gender quotas and international reputation. *American Journal of Political Science*, 65(2), 326–341. <https://doi.org/10.1111/ajps.12557>

Chaudhuri, A. (2022). *Finding the raga: An improvisation on Indian Music*. Faber.

Choudry, A. A. (2015). *Learning activism: The intellectual life of contemporary social movements*. University of Toronto Press.

Fatima, S., Fatima, N., & Muazzam, A. (2022). Assessing familial and social factors of life satisfaction in Pakistani transgender and non-binary individuals: Implications for counseling. *Journal of LGBTQ Issues in Counseling*, 16(1), 67–85. <https://doi.org/10.1080/15538605.2021.1972896>

Fazi, M. A., & Bibi, M. (2020). Discrepancies in transgender persons (Protection of Rights) Act, 2018: A comparative study of transgender's rights in Pakistan and India. *International Journal of Law and Management*, 63(3), 347–356. <https://doi.org/10.1108/ijlma-10-2020-0262>

Finnemore, M., & Sikkink, K. (1998). International Norm Dynamics and political change. *International Organization*, 52(4), 887–917. <https://doi.org/10.1162/002081898550789>

Gartzke, E. A., Carcelli, S., Gannon, J. A., & Zhang, J. J. (2017). Signaling in foreign policy. *Oxford Research Encyclopedia of Politics*. <https://doi.org/10.1093/acrefore/9780190228637.013.481>

Gilady, L. (2018). *The price of prestige: Conspicuous consumption in international relations*. The University of Chicago Press.

Greene, J. C., Caracelli, V. J., & Graham, W. F. (1989). Toward a conceptual framework for mixed-method evaluation designs. *Educational Evaluation and Policy Analysis*, 11(3), 255–274. <https://doi.org/10.3102/01623737011003255>

Gul, M. (2018). *History of a marginalised community: D+C - development + cooperation*. Frontpage. <https://www.dandc.eu/en/article/british-introduced-discrimination-transgender-persons-south-asia>

Hussain, S. (2019). State, gender and the life of colonial laws: The *hijras/khwajasaras'* history of dispossession and their demand for dignity and *izzat* in Pakistan. *Postcolonial Studies*, 22(3), 325–344. <https://doi.org/10.1080/13688790.2019.1630030>

Hussain, Z. Z. (1970, January 1). *The effect of domestic politics on foreign policy decision making*. Semantic Scholar.

<https://www.semanticscholar.org/paper/The-effect-of-domestic-politics-on-foreign-policy-Hussain/d98364bdb42336f14b3e46c38f18711d8b01a1d8>

Ikenberry, J. G. (1996). The intertwining of domestic and international politics. *Polity*, 29(2), 293–298. <https://doi.org/10.2307/3235304>

ILO. (2019). LGBTIQ psychology in context. *Lesbian, Gay, Bisexual, Trans, Intersex, and Queer Psychology*, 3–13. <https://doi.org/10.1017/9781108303750.001>

Jain, D., & DasGupta, D. (2021). Law, Gender Identity, and the uses of human rights: The paradox of recognition in South Asia. *Journal of Human Rights*, 20(1), 110–126. <https://doi.org/10.1080/14754835.2020.1845129>

Johnson, P. G. (1983). Some reflections on “Leading questions.” *Review of Religious Research*, 24(4), 357. <https://doi.org/10.2307/3511014>

Keck, M., & Skikinnk, K. (2019). 1. Transnational Advocacy Networks in international politics: Introduction. *Activists beyond Borders*, 1–38. <https://doi.org/10.7591/9780801471292-002>

Khan, S. A. (2020). Transgender community in Pakistan: From marginalized “aliens/others” to empowered “citizens”? *Progressive Research Journal of Arts & Humanities (PRJAH)*, 2(2), 28–42. <https://doi.org/10.51872/prjah.vol2.iss2.35>

Mathison, S. (1988). Why triangulate? *Educational Researcher*, 17(2), 13–17.
<https://doi.org/10.3102/0013189x017002013>

Mehtab, M. (2017). Khwaja siras of pakistan: a community. *Daily News*.

News, D. (2022). There and back again: a timeline of pakistan’s journey out of the fatf “grey list.” *Dawn News*.

Nogueira, M. B. (2017). The promotion of LGBT rights as international human rights norms: Explaining Brazil’s diplomatic leadership. *Global Governance: A Review of Multilateralism and International Organizations*, 23(4), 545–563.
<https://doi.org/10.1163/19426720-02304003>

Poast, P., & Urpelainen, J. (2018). *Organizing democracy: How international organizations assist new democracies*. The University of Chicago Press.

Przeworski, A. (2009). Conquered or granted? A history of suffrage extensions. *British Journal of Political Science*, 39(2), 291–321. <https://doi.org/10.1017/s0007123408000434>

Staggenborg, S. (2022). *Social Movements*. Oxford University Press.

Sufi, R. (2022). Sindh march in defense of moorat and khwajasira communities in pakistan.

Terman, R. L. (2023). *The geopolitics of shaming: When human rights pressure works--and when it backfires*. Princeton University Press.

Tribune, E. (2022). Sindh moorat march.

Zainuddin, A. A., & Mahdy, Z. A. (2016). The Islamic perspectives of gender-related issues in the management of patients with disorders of sex development. *Archives of Sexual Behavior*, 46(2), 353–360. <https://doi.org/10.1007/s10508-016-0754-y>

Appendix A

Transgender Persons Protection of Rights Act 2018

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**CHAPTER II
RECOGNITION OF IDENTITY OF TRANSGENDER PERSON**

3. Recognition of identity of Transgender Person. – (1) 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.

(2) A person recognized as transgender under sub-section (1) shall have a right to get himself or herself registered as per self-perceived gender identity with all government departments including, but not limited to NADRA.

(3) Every Transgender Person, being the citizen of Pakistan, who has attained the age of eighteen years shall have the right to get himself or herself registered according to self-perceived gender identity with NADRA on the CNIC, CRC, Driving Licence and Passport in accordance with the provisions of the NADRA Ordinance, 2000 or any other relevant laws.

(4) A Transgender Person already issued CNIC by NADRA shall be allowed to change the name and gender according to his or her self-perceived identity on the CNIC, CRC, Driving Licence and Passport in accordance with the provisions of the NADRA Ordinance, 2000.

CHAPTER V
PROTECTION OF RIGHTS OF TRANSGENDER PERSONS

7. Right to Inherit. – (1) There shall be no discrimination against Transgender Persons in acquiring the rightful share of property as prescribed under the law of inheritance.

(2) The share of Transgender Persons shall be determined as per the gender declared on CNIC in accordance with the law of inheritance in Pakistan.

(3) The share of inheritance for transgender persons will be as follows:

(i) For Transgender Male, the share of inheritance will be that of man;

(ii) For Transgender Female, the share of inheritance will be that of woman;

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- (iii) For person who has both male and female or ambiguous characteristics, such as their state is difficult to determine upon birth, following shall apply:-
- (a) Upon reaching the age of 18 years, if the person's self-perceived gender identity is Transgender Male, the share of inheritance will be that of man;
 - (b) Upon reaching the age of 18 years, if the person's self-perceived gender identity is Transgender Female, the share of inheritance will be that of woman;
 - (c) Upon reaching the age of 18 years, if the person's self-perceived gender identity is neither Transgender Man nor Transgender Woman, the share of inheritance will be an average of two separate distributions for a man and a woman; and
 - (d) Below the age of eighteen years, the gender as, determined by medical officer on the basis of predominant male or female features.

8. Right to Education.— (1) There shall be no discrimination against Transgender Persons in acquiring admission in any educational institutions, public or private, subject to fulfillment of the prescribed requirements.

(2) All educational institutions shall provide education and opportunities for sports, recreation and leisure activities without any discrimination, and on an equal basis with others.

(3) The Government shall take steps to provide free and compulsory education to Transgender Persons as guaranteed under Article 25A of the Constitution of the Islamic Republic of Pakistan, 1973.

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(5) It is unlawful for an institution whether private or public, to discriminate against a person on the ground of person's sex, gender identity and/or gender expression, including but not limited to:

- (a) in determining who should be offered admission; or
- (b) in the terms or conditions on which admission is offered; or
- (c) by denying the person's access, or limiting the person's access, to opportunities, training or to any other positive externalities associated with the education; or
- (d) by denying access to appropriate student facilities based on a person's sex, gender identity and/or expression.

9. Right to employment.– (1) The Government must ensure the right to enter into any lawful profession or occupation, and to conduct any lawful trade or business for the Transgender Persons as guaranteed under Article 18 of the Constitution of the Islamic Republic of Pakistan, 1973.

(2) No establishment, institution, department, organization, shall discriminate against any transgender person in any matter relating to employment including, but not limited to, recruitment, promotion, appointment, transfer and other related issues.

(3) It shall be unlawful for an employer to discriminate against an employee on the ground of their sex, gender identity and/or gender expression:

- (a) in determining who should be offered employment; or
- (b) in the terms or conditions on which employment is offered; or
- (c) by denying the employee access, or limiting the employee's access, to opportunities for promotion, transfer or training, or to any other benefits associated with employment; or

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- (d) by dismissing the employee; or
- (e) by subjecting the employee to any other detriment.

10. Right to Vote. – No Transgender Person shall be deprived of their right to cast a vote during national, provincial and/or local government elections:

Provided that the access to polling stations shall be determined according to the gender declared on the CNIC of a Transgender Person.

11. Right to hold public office. – (1) There shall be no discrimination on the basis of sex, gender identity and/or gender expression for Transgender Persons if they wish to contest election to hold public office.

12. Right to Health. – The Government shall take the following measures to ensure non-discrimination in relation to Transgender Persons, namely: –

- (a) to review medical curriculum and improve research for Doctors and nursing staff to address specific health issues of Transgender Persons in cooperation with PMDC;
- (b) to facilitate access by providing an enabling and safe environment for Transgender Persons in hospitals and other healthcare institutions and centers;
- (c) to ensure Transgender Persons access to all necessary medical and psychological gender corrective treatment;

13. Right to assembly. – (1) The Government must ensure the freedom of assembly for Transgender Persons in accordance with Article 16 of the Constitution of the Islamic Republic of Pakistan, 1973.

(2) The Government must take steps to ensure appropriate safety measures for Transgender Persons.

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(3) No discrimination shall be made on the basis of person's sex, gender identity and/or gender expression subject to reasonable restrictions imposed by law in the interest of public order.

14. Right of access to public places. – (1) No Transgender person shall be denied access to public places, places of entertainment or places intended for religious purpose solely on the basis of their sex, gender identity and/or gender expression.

(2) The Government must ensure Transgender Persons access to public places in view of Article 26 of the Constitution of the Islamic Republic of Pakistan, 1973.

(3) It shall be unlawful to prevent Transgender Persons to access facilities available for access of general public and public places mentioned in sub-section (1).

15. Right to property. – (1) No Transgender Person shall be denied right to purchase, sell, rent or lease property, household or tenancy on the basis of sex, gender identity and/or gender expression.

(2) It shall be unlawful to discriminate any Transgender Person with regards to renting, subletting or tenancy on the basis of their sex, gender identity and/or gender expression.

16. Guarantee of Fundamental Rights. – (1) In addition to rights mentioned in this chapter, Fundamental Rights mentioned in Chapter I, Part II of the Constitution of the Islamic Republic of Pakistan, 1973 shall be available unequivocally for every Transgender Person.

(2) It shall be the duty of the Government to ensure that the fundamental rights mentioned in sub-section (1) are protected and there shall be no discrimination for any person on the basis of sex, gender identity and/or gender expression.

17. Offences and Penalties.– (1) Whoever, employs, compels or uses any transgender person for begging shall be punishable with imprisonment which may extend to six months or with fine which may extend to fifty thousand rupees or with both.

