

# FROM SILENCE TO TRANSACTION IN KHYBER PAKHTUNKHWA

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## INTRODUCTION

Gender identity and sexual orientation continue to be used as justifications for serious human rights violations in Pakistan, particularly in the North West Frontier Province of Pakistan, now known as Khyber Pakhtunkhwa. In this conservative tribal society, the transgender population forms a defenceless group.

Transgender persons do not have the same level of rights as other Pakistanis, and are routinely harassed, discriminated against and subjected to violence simply for being transgender. Transgender persons are often beaten by the police for no reason, burnt with cigarettes and raped. They experience discrimination in accessing economic, social, and cultural rights, including when it comes to education, health care and housing. Transgender persons are forced to live on the margins of society as entertainers, beggars and sex workers. Psychological and physical distress results from the exploitation of their non-conformist sexuality by the community and the state machinery.

## THE SCALE OF THE CHALLENGE

Pakistan has substantial diversity of population. It includes people belonging to different religions, cultures, languages and ethnic backgrounds. Among this diverse mixture in our population lies a neglected community, a community that is deep-rooted yet remains disowned. The term hijra is commonly used all over South Asia, to include people who identify as transgender, transsexual, cross-dressers or eunuchs. In Pakistani society hijras are visible as a female dressing transgender and intersexual community who display a particular form of behaviour. In general, their idealised type of behaviour would be to be 'ladylike'.

In South Asia the history of hijras are mentioned and celebrated in ancient Hindu texts such as the 'Mahabharata' and the 'Kama Sutra' and had much respect in South Asian culture. In 1897, hijras began to be criminalised and they started to find solace in a guru or protective leader (sometimes seen as a 'mother figure') who could offer emotional or monetary support to them.

The hijras scrape out a hard existence. Hijras earn their living as beggars, dancers and prostitutes. Their sexual identity makes them a vulnerable section of society. They are made more vulnerable by a lack of access to education, skills and health care, a lack of awareness about their rights as a human and as a citizen of the country, and a lack of ways to hear and be heard by the national and international community about community wrongs and pains.

In 2009 the Supreme Court of Pakistan ordered that the government officially recognise a separate gender for the hijra community, including transgendered people, transvestites and eunuchs. The court told the federal government to begin allowing people to identify as hijras when registering for a national identity card. Other recent gains for Pakistan's transgender community were new measures to entitle transgender persons to have a legal share of family inheritance, a reserved 2 per cent quota of jobs in all sectors and the right to vote in elections.

However, even after the Supreme Court ruling, there has been no effort by legislative bodies to introduce a comprehensive law to protect the rights of transgender persons. Little has changed in practice, and discrimination persists. Sexual orientation and gender identity are sensitive subjects in Khyber Pakhtunkhwa province, where life is defined by strict tribal values and religious beliefs. Despite this, many in civil society have identified a need to speak out for the rights of transgender persons, because their lives and rights are at stake.

Currently Pakistan's western border areas are racked by violence as government forces fight separatists and pro-Taliban militants. Hundreds of thousands of people have been displaced by the fighting, causing significant damage to human life, livestock and property. The resulting massive displacement, poor living conditions, overcrowding in camps, lack of privacy, disruption of social networks and social norms, and destruction of health and other support facilities have significantly exacerbated the already acute vulnerabilities of the transgender population. Compounded with this mass displacement and destruction of homes and livelihoods, transgender persons are at the greatest risk of sexual and gender based violence in Khyber Pakhtunkhwa.

It is, however, difficult to assess accurately the living conditions and human rights situation of transgender persons, because they are excluded by government and much of civil society, and there is silence around issues of sexuality. The deeply closeted status of the transgender population makes activism difficult.

Given these challenges, the needs of the transgender population in Khyber Pakhtunkhwa and the neighbouring Federally Administered Tribal Areas (FATA) are incredible. Problems are worsened by conflict and the experience of disaster. Past analysis of crisis situations demonstrates that emergencies often exacerbate prejudices and make marginalised people more vulnerable. Although disaster risk reduction (DRR) strategies and relief protocols are increasingly sensitive to the needs of at risk and vulnerable populations, the specific vulnerabilities of the transgender population are completely overlooked. For example, ration schemes are targeted only at women and men, while transgender persons are denied entry to internally displaced population camps because they do not possess government identity cards that match their appearance.

There are a large number of organisations working to improve the conditions of conflict affected populations, with interventions in areas including agriculture and food security, shelter and housing, gender issues, water and sanitation, healthcare, economic development, education and vocational training, infrastructure, governance, internally displaced person services and disaster preparedness, among others. While important, these in the main do not address the underlying issues of chronic vulnerability, and they overlook transgender needs, issues and vulnerabilities.

Civil society has observed with concern that development staff often overlook gender identity and sexuality concerns, because these issues cause unease, and because staff lack protocols to deal with the issues. Similar gaps exist in DRR and emergency relief programming. Relief efforts typically use the family as the common unit for analysing and distributing relief services. As a result, relief aid rarely extends to transgender persons. Further, transgender persons are vulnerable to being forced out of their family living situations as a result of stigma and prejudice. For those who continue to live with their families, prejudice inside the family unit can mean that transgender family members receive less material aid inside the household.

## THE CIVIL SOCIETY RESPONSE

Civil society in Khyber Pakhtunkhwa has taken some initiative to mainstream the issues of the transgender population in Khyber Pakhtunkhwa and FATA. We anticipate that our efforts will contribute towards ensuring the provision of emergency relief to vulnerable transgender communities, including shelter, nutritional support, medical support, protection and assistance in recovering livelihoods. We also support advocacy for improved government and UN protection of transgender persons.

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Civil society is now working with the government to lobby the government of Pakistan to:

- recognise transgender people as equal citizens of Pakistan;
- provide free medical care to transgender people who are routinely denied public healthcare;
- enable entrepreneurship by providing economic opportunities for transgender people who are, by and large, left out of the mainstream economy.

We also hope that by working for a friendlier legal environment and political landscape, inclusive policies will be expedited.

The civil society alliances of Khyber Pakhtunkhwa have joined hands to protect the rights of the transgender population of Khyber Pakhtunkhwa and FATA and work for their safety and visibility. An alliance, representing 48,000 transgender persons from 25 districts of Khyber Pakhtunkhwa, has been formed under the banner of TransAction, to work for the well-being and protection of the transgender community, and to seek to achieve equality, inclusion and rights in gender identity and gender reassignment.

TransAction Khyber Pakhtunkhwa is emerging as a viable movement of transgender persons advocating for laws and policies that will protect the dignity of the transgender population, and working to create a safe and inclusive environment where transgender persons can enjoy their rights fully, without any fear and discrimination.

## NEXT STEPS FOR THE ALLIANCE

Civil society alliances, including Blue Veins, Pakhtunkhwa Civil Society Network, MEN UNiTE and the Tribal NGOs Consortium, are working with TransAction to sensitise and engage multiple stakeholders in identifying gaps, and to prepare and advocate for

recommendations on how to increase the protection of transgender persons. Next steps include:

- To prepare and advocate for legislation that empowers transgender persons to be able to exercise their universal human rights.
- To call for increased legal assistance for transgender persons and equitable legal gender recognition for transgender persons.
- To establish a representative civil society organisation of transgender persons in Khyber Pakhtunkhwa and build its capacity.
- To engage the media in combating the stereotypical image of transgender persons in Khyber Pakhtunkhwa.