



Statement of Concern over the Ruling of Federal Sharia Court Pakistan against Transgender Persons Protection of Rights act 2018

Forum for Dignity Initiatives-fdi Pakistan expresses its deep concern over the recent ruling by the Federal Sharia Court-FSC to strike down fundamental of landmark law “Transgender Persons Protection of Rights Act 2018. May 19, 2023, shall be marked as “**BALCK DAY**” in Pakistan as it has witnessed a major backlash on protecting transgender rights in Pakistan.

The court, ruled that the Transgender Persons (Protection of Rights) Act was “*against the injunctions of Islam as laid down in the Holy Quran and Sunnah of the Holy Prophet.*” The court claimed that the Quran acknowledges only sex assigned at birth, and therefore self-identification of gender is against the precepts of Islam. The Federal Sharia Court rejected three major sections of the Act. Namely sections 2(f), 3 and 7 of the Transgender Act 2018 deeming them against Islamic teachings.

Section 2(f)of the Act talks about the meaning of self-identity:

Gender Identity means a person, s innermost and individual sense of self as male, female or a blend of both or neither: that can correspond or not to the sex assigned at birth.

Section 3 of the article highlights right to self-identity:

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 License 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 License, and passport in accordance with the provisions of the NADRA Ordinance, 2000.

Lastly section 7 of the article focuses on a transgender person’s right to inheritance:

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

Forum for Dignity Initiatives-fdi Pakistan expresses its anger and frustration and calls it a **“MILLION STEPS BACKWARD”** on protecting the rights of transgender persons. The ruling against the Act has undermined decades of struggles transgender persons, activists, and allies.

Furthermore, the ruling is a complete mockery of the legislative process and calling the Act **“UNISLAMIC IS NOT TRUE”**. The Council of Islamic Ideology was on board throughout the legislative process as there was immense pressure on lawmakers then to ensure that the Act needs to be aligned with Islamic principles.

The constitution of Pakistan 1973 guarantees the fundamental rights of all the citizens from any discrimination, **Article 25** of the constitution states that:

(1) All citizens are equal before law and are entitled to equal protection of law.

(2) There shall be no discrimination on the basis of sex.

The legal recognition of “Transgender Persons’ Gender” did wonders over the past five years. We cannot undermine the progress post law enactment, the process of building a safe and inclusive society for transgender persons across the country, be it 05 transgender persons contesting for general elections in 2018 (soon after the law was passed), transgender persons completing their professional degrees in medical and law, qualifying for international universities for their academic careers, successful business ventures, employment in private and public sector and much more in day-to-day life.

Striking down the fundamental sections of Transgender Persons Protection of Rights Act 2018 by the Sharia court will result in an unprecedented wave of violence and increase in transphobia against transgender persons, allies, and activists across the country.

Ministry of Human Rights Pakistan is primary custodian of the law and fdi demands the ministry to proceed to Supreme Court of Pakistan to appeal against the ruling by the Federal Sharia Court and restore the Act in its original state. fdi calls upon the Minister of Human Rights to make a public statement to defend the Act and to assure his support and responsibility to protect the lives and rights of transgender persons, activists, and allies. We demand from the national/provincial parliaments of Pakistan to table a resolution to protect “Transgender Persons Protection of Rights Act 2018” without any ambiguity.

Forum for Dignity Initiative reaffirms its commitment to continue its struggle for advocating and upholding rights of transgender persons. We encourage all allies and civil society of Pakistan not to be misguided by transphobic social media campaigns and stand by our transgender fellow citizens, friends, and colleagues. This is a difficult time, but we need to express solidarity and need to strengthen each other collective efforts to end transphobia in Pakistan.

Date: 27 May 2023