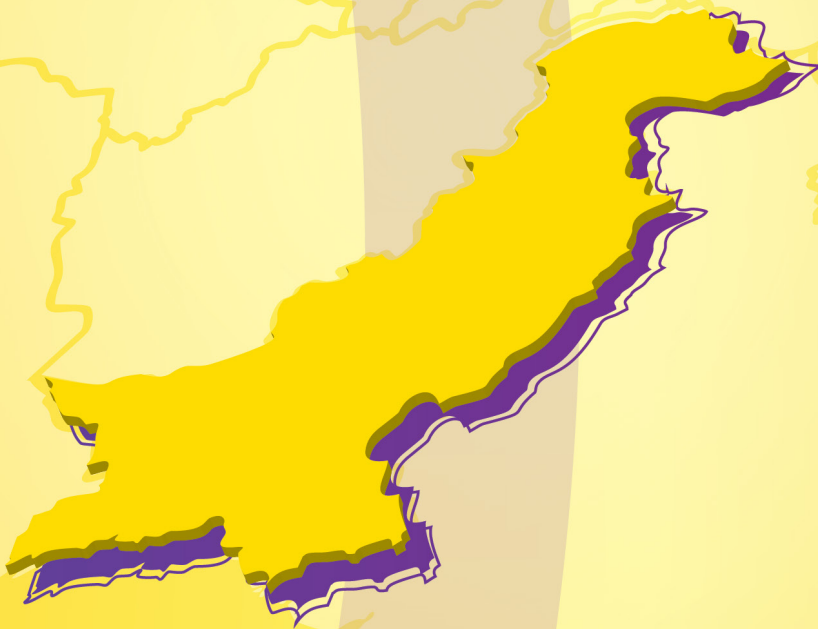




# Intersex Justice in Pakistan

*Inspiring Action through Research*



Country report on the situation of  
Intersex Rights in Pakistan

**2024**

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**Suggested citation:**

Mehrub Moiz Awan, “Intersex Justice in Pakistan: A Country Report on the  
situation of intersex rights in Pakistan” (Taiwan: Intersex Asia, April 2024).

Available from: [www.intersexasia.org](http://www.intersexasia.org)

This publication has been produced with the financial support of the ACTIF  
Fund and has been conducted with the support of EGALE Canada. The  
content of this publication is the sole responsibility of Intersex Asia and can  
in no way be taken to reflect the views of the ACTIF Fund or EGALE Canada.

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## Preface

This report presents the findings of a research project focused on the current state of intersex rights and medical care in Pakistan. The project aimed to identify the existing policies and schemes of the government, the gaps between these efforts and the actual needs of intersex people, and the reasons why these efforts are insufficient. The research also aimed to analyse the role of community support organisations, religiously motivated and conservative gender-critical politics in Pakistan, and other factors that create these gaps, oversights, and limitations. Through interviews and a literature review, this project aimed to contribute to the advancement of intersex rights in Pakistan and promote a deeper understanding of the issues faced by intersex people in the country.

## Acknowledgement

Firstly, we are grateful to the intersex individuals and communities who shared their personal experiences and insights during the research process. Their courage and resilience in the face of systemic discrimination and marginalisation are a constant source of inspiration to us.

We also extend our heartfelt appreciation to the healthcare professionals, legal experts, and human rights advocates who generously gave their time and expertise to provide us with valuable information and feedback.

Our thanks also go to the international organisations and donors who supported this research project and contributed to the advancement of intersex rights and services in Pakistan.

Finally, we would like to acknowledge the tireless efforts of our research team, who worked diligently and tirelessly to ensure the accuracy and comprehensiveness of this report.

We recognise that the work of promoting intersex rights and services in Pakistan is ongoing, and we remain committed to continuing this important work.

## Executive Summary

Intersex Asia commissioned this research report to study and describe the policy, legal, and affective landscape of intersex reality in Pakistan. Through a desk review of academic and non-academic literature on intersex persons and conditions in Pakistan and direct interviews with five key informants, this report thematically describes the intersex lived experience in Pakistan and the socio-political landscape that governs it. The Transgender Persons Act 2018 and subsequent Rules 2020 define Intersex, indigenous “khwajasira”, transgender, and gender non-binary people but only enable them to access the X gender marker on their government IDs. Intersex as a condition has recently been politicised by the religiously motivated conservative and gender-critical movement in Pakistan and pitted against transgender persons to delegitimise self-determination of gender identity, gender-affirming care, and transgender identities. An amendment to the Act titled the Intersex (Khunsa) Act 2022, which outlaws gender-affirming care, removes self-determination of gender identity, and mandates a 5-person clinical panel to determine the gender marker for intersex persons, has made it to the Senate. The Federal Shariat Court passed a verdict against the Transgender Persons Act, calling it repugnant to the values of Islam and stifling the self-determination of gender identity. Consequently, the country is rife with transphobic hate speech, both digitally and offline. Within this harsh political and legal backdrop, intersex persons’ rights and representation are clearly being affected. In literature, the term “intersex” has often been used interchangeably with “transgender” and “khwajasira”, denoting that the contestation between local and global gender epistemologies is still ongoing in post-colonial Pakistan. Medical literature documents intersex children as special cases, whereas gaps in clinical care providers’ knowledge and ethics about intersex care abound. Recent literature has emerged in Pakistan that theorises and positions intersex people and identities through critical social science and humanities methods. Both literature and interviews confirm that genital mutilation of intersex children is the norm to “normalise” them into a gender binary. Congenital adrenal hyperplasia and androgen insensitivity are the most reported intersex variations. Parent preference takes precedence over medical ethics and self-determination, although one medical paper from Pakistan calls for giving preference to the “patient’s choice”. The bodily integrity of intersex persons is often compromised through non-consensual and intrusive medical examinations to “confirm” their gender. Intersex persons face social ostracisation and direct bullying in schools and universities due to the disconnect between their given names, gender identity, gender expression, and physical appearance.

Moreover, as the legal gender recognition for intersex persons is limited to the gender assigned at birth or the X marker, the Act of 2018 fails both its intersex and transgender beneficiaries who desire a male or female gender marker. The absence of clinical care for intersex adults further compounds their low access to quality and affirmative health care – this is further exacerbated by the documented knowledge and ethical gaps of clinical care providers, especially for intersex persons. Access to justice and redress is a problem for all Pakistani citizens who perceive the judicial system as tardy, expensive, and ineffective. Historically, transgender persons have successfully engaged with the High Courts of Pakistan to get permission for a gender marker of their self-determined gender identity, albeit after transitioning. Data and research on intersex persons aren't extensively and directly available, and ongoing civil society and government programs don't document intersex as a variable separately. Instead, most research and data reported on intersex, unless qualitatively elaborated, is often data on "khwajasira" and transgender persons. Consequently, there is non-existent inclusion of intersex persons in any policymaking, including emergency policies. This study confirms that the COVID-19 pandemic anxiety fueled intrusive examinations of intersex bodies under the guise of medical readiness. Moreover, Pakistan is going through tumultuous political and economic times, with the risk of violent extremism high amidst a genocidal increase in transphobic hate crimes. This constitutes a security emergency for transgender and intersex persons, who are also covered in the National Security Plan of the country yet aren't meaningfully included in any emergency policy responses for the country. This report confirms and describes the many contours of discrimination and violence against intersex people in Pakistan. A significant gap in all existing research on intersex people is the reliance on typical recruitment methods that clearly fail at capturing as many intersex persons as possible. Further research with intersex people must innovate and create new methods of participant recruitment that defy the wall of invisibility that surrounds intersex persons. The report recommends that the current Transgender Persons Act 2018 be amended progressively to expand access to self-determined gender identities beyond the X marker. It further recommends that national standards for medical and psychological care for intersex and transgender persons be designed and included in the training curricula of all medical professionals. Lastly, dis- and misinformation about transgender and intersex persons, as well as gender-affirming care, should be classified as hate speech because it directly contributes to violence against all gender non-conforming and inordinate persons.

# 1. Introduction

- 1.1 **Discourse and Disputes: Semantic Politics in Shaping Transgender and Intersex Rights in Pakistan**
- 1.2 **Main Problems, their Scope, and Impact**
- 1.3 **Goals and Objectives**



## 1.1 Discourse and Disputes: Semantic Politics in Shaping Transgender and Intersex Rights in Pakistan

The narrative surrounding transgender and intersex rights in Pakistan has experienced several shifts throughout history. In this section, the progression of these rights is traced, identifying key moments of change and significant factors that have shaped the current landscape.

Contemporary Pakistan has been going through legal gender chaos ever since The Government of Pakistan passed a parliamentary legislation titled The Transgender Persons (Protection of Rights) Act in 2018 <sup>(1)</sup>, followed by the Rules to govern the said act in 2020 <sup>(2)</sup>. Prior to the Act, a Supreme Court ruling in 2009 in the Almas Bobby versus The Federation of Pakistan case, the State recognised the existence of “eunuchs” as the third gender and urged the Government to create provisions for this “special population” <sup>(3)</sup>. This special nature of the population is characterised by the State (and citizenries) commonly held understanding of the indigenous “khwajasira” population.

The “khwajasiras”, or “hijras”, are a distinct gender subculture in Pakistan, India, Nepal, and Bangladesh. Khwajasira people are mostly assigned male at birth but identify as third-gender persons with a female soul <sup>(4)</sup>. This is different from the Euro-Western epistemology of “transness” and “cis-ness”, as the khwajasira embody and live within a unique paradigm of thirdness, where their gender expression was historically accepted and tolerated in the many royal traditions of pre-colonial India <sup>(5)</sup>. After colonisation, the khwajasira were recoded as “eunuchs” in the British Colonial language <sup>(6)</sup>. Furthermore, their mobility, citizenship, and dignity were severely compromised through the Criminal Tribes Acts of India – draconian colonial laws that criminalised many indigenous and native tribes, including the khwajasira <sup>(6)</sup>. Moreover, through the Census Act of India, colonial India legislated only two sexes, and henceforth, only male and female citizens of British India were counted and afforded citizenship <sup>(6)</sup>. The khwajasiras, identifying as a unique third gender, were left out of this colonial gender-binary reality. This effectively rendered them stateless within a State, and many resorted to sex work, begging, and performance economies to survive <sup>(7)</sup>. It is within this historical marginalisation and the subsequent socio-economic marginalisation, that the khwajasiras have been understood as an oppressed third gender population in Pakistan, leading to the 2009 judgment by the Supreme Court.

In 2013, the Supreme Court heard yet another case against the Federation of Pakistan on tardy implementation of its 2009 judgment <sup>(8)</sup>. The Court ruled that the government must immediately make provisions to provide khwajasira people with national identity documents, known as Computerised National Identity Cards (CNIC), bearing their gender marker. The Government, through its National Database and Registration Authority (NADRA), started providing khwajasira people with CNICs listing their gender as “khwajasira” in Urdu. However, as no thorough law or policy backed this move, there remained ample confusion as

to whether a medical certificate was necessary before a gender marker change. Moreover, paternal and familial inheritance in Pakistan is different for male and female children, and confusion abounded as to how inheritance would be divvied up for folks with a khwajasira CNIC.

To solve this legal loophole, activists and politicians started engaging with each other in 2016 to come up with a comprehensive law that defines gender identity and transgender people. By this time, significant strides had been made by khwajasira-led community-based organisation in HIV service delivery and prevention. Through this engagement with the global health and HIV discourse, the term “transgender” became popularised and was actively adopted by the khwajasira community. It became the English alternative for khwajasiras, and in Pakistan, it was used as a “noun” rather than an adjective. The consultations with the legislators bore fruit, and in 2018, the Transgender Persons Act became law <sup>(1)</sup>.

The legislation, deemed progressive at its passing, clubbed intersex people with the indigenous khwajasira people and other transgender and gender non-binary persons and defined all these people as “transgender”. Furthermore, the Act allowed “self-perceived gender identity” to be documented on national identification while defining gender identity as “male, female, or a blend of both”. This allowed some transgender men and women to obtain CNICs bearing the “male” and “female” markers, respectively, at first. However, in 2020, a father moved the Lahore High Court to protect his daughter from a same-sex marriage with a trans-man <sup>(9)</sup>. The daughter got married to a transgender man, defying the patriarchal orders of her father. The groom, through the Act of 2018, had obtained his documents bearing the male gender marker. This case became a media frenzy, and the groom was misgendered, and the marriage was reported as a same-sex marriage <sup>(9)</sup>. The Government, through a legislative order, issued supplementary Rules to the Transgender Persons Act in 2020. According to the Rules, a transgender person can get a national government ID issued with the gender marker X only, eliminating the option for a female or male card. This reinforced the ideals set out in the 2009 and subsequent 2013 ruling of the Supreme Court and restricted the operationalizing of “self-perceived gender identity” to X only – hence, forcing all transgender and intersex people into the third-gender category.

In 2020, the first petitions against the Transgender Persons Act were lodged in the Federal Shariat Court of Pakistan. The petitioners argued that the law has opened the “floodgates of homosexuality in Pakistan” and that the Act must be revoked as it is repugnant to the values of Islam. The petitioners argued that they are in favour of the rights of intersex people as they were “born with sexual disabilities”. The petitioners further recoded khwajasira as “intersex” and stated that transgender was a man-made condition, whereas “intersex” people are the “true third-gender people” <sup>(10)</sup>. “Intersex”, as a term to categorise and explain people, has only recently sprung up in the Pakistani public imagination because of the intersex versus transgender dichotomisation led by the religious conservative

and gender-critical political movement in Pakistan since 2020 <sup>(11)</sup>. Through an openly anti-LGBTQ-themed campaign, the religious and conservative political parties rallied against the Transgender Persons Act, provoked transphobic sentiments in the public, and vowed to protect the rights of “real khwajasiras” whom the parties claimed were, in fact, intersex. This resulted in four different Bills presented on the floor of the Senate to amend the Transgender Persons Act of 2018. The Bills were then clubbed together as the Khunsa (Intersex) Persons (Protection of Rights) Bill and presented on the floor of the Senate by the leading gender-critical and trans-critical Senator Mushtaq Ahmad in 2022 <sup>(12)</sup>.

The conservative Pakistani patriarchal imagination continues to define gender and gender roles based on reproductive output and governs it through the institution of marriage <sup>(13)</sup>. Notions of modesty and piety still govern gender policing, and men and women are expected to fulfil their societal expectations of sticking to heterosexuality and through a successful marriage culminating in pregnancy and childbirth. The inability to conceive is seen as a failure of one’s gendered expectations, and it is here that the cultural sensibility of “khusra” emerges – a vulgar and pejorative alternative to the term “khwajasira”.

Khusra is a word used to demonise and discredit people in many ways <sup>(14)</sup>. The term is applied to effeminate men, gay men, and transgender folks with impunity; however, the word is also used to describe assigned male at birth individuals who can’t conceive after marriage. Another term in Urdu to describe such individuals is “na-marrd”, which translates into “non-man” <sup>(15)</sup>. Through the Federal Shariat Court petitions challenging the Transgender Persons Act 2018 and the subsequent nationwide gender-critical campaign, Pakistan had already set the stage to define intersex non-reproductive people as “sexually disabled” <sup>(12)</sup>.

The Khunsa Bill 2022 seeks to define intersex people as individuals “born with ambiguous genitalia” or a “combination of male and female features” <sup>(16)</sup>. The Bill states that all intersex characteristics must be visible and recorded at the time of birth. If an adult person is intersex, they will be subjected to a 5-person medical team who, after conducting necessary tests and examinations, will suggest whether the individual should be categorised as male or female <sup>(16)</sup>. The conservative Islamic reasoning behind this provision lies in the belief that Islam only recognises sex-at-birth and sex characteristics, and all gender norms must correspond to a person’s sex characteristics. The reasoning further argues that being intersex is a “sexual disability” or “an infirmity of the sexual organs”, and any corrective treatment must be done to restore reproductive function (and hence gender roles) closest to a person’s assigned sex characteristic. Self-perceived gender identity doesn’t exist in this amendment Bill, and it specifies that gender dysphoria is not a valid medical diagnosis or the basis of protection under this Bill <sup>(16)</sup>. The Bill further outlaws all gender-affirming care on the grounds of gender dysphoria. The movement behind this Bill features prominent religious YouTubers and fashion-savvy social media influencers who are brazenly transphobic.

One such influencer has been taking to her social media to educate the public about the difference between intersex and transgender individuals and how the latter is evil and corrupting Pakistani society. Her definition of intersex varies, but the terms she has used so far are “sex-less hermaphrodites” and “true hermaphrodites”. She has gone so far as to create an “Intersex Fund” to support the intersex community of Pakistan, the spokesperson of which is a gender-critical conservative aligned transgender woman herself<sup>(17)</sup>.

This has created a paradoxical situation in Pakistan, where, on the one hand, patriarchal values still dominate that, alongside medical practice, continue to harm intersex individuals. On the other hand, “intersex” is now being presented as a “desirable” category and identity term to use since it has the blessing of the religious right, making many from the transgender community consider adopting the term without truly realizing how the movement actively harms the intersex community.

In May 2023, the Federal Shariat Court released its verdict against some Sections of the Transgender Persons Act 2018, calling them repugnant to the values of Islam<sup>(18)</sup>. The verdict endorsed all the transphobic and gender-critical points of the conservative petitioners against the self-determination of gender identity, even as third gender<sup>(18)</sup>. It further argues that intersex is the correct English translation for the Urdu word “khusra”, and that intersex are people who are born with “sexual disabilities”<sup>(18)</sup>. Disparaging gender-affirming care and gender-confirming surgeries for transgender people, the verdict further states that intersex people ought to get corrective surgeries to “uncover their hidden reproductive features”, as suggested by medical professionals<sup>(18)</sup>. The Government of Pakistan has six months, and the aggrieved parties to the verdict have sixty days, to file an appeal in the Supreme Court of Pakistan against the verdict<sup>(18)</sup>. The verdict of the Federal Shariat Court will not come into effect until the Supreme Court announces its decision on the appeals after they are filed by the Government or by activist bodies.

## 1.2 Main Problem, their Scope, and Impact

Intersex people in Pakistan face significant challenges related to their bodily integrity, discrimination, and access to basic services. The lack of awareness and understanding of intersex variations among medical professionals and the public leads to discrimination and stigma against intersex individuals. This often results in a lack of access to necessary medical care and support. Additionally, intersex people in Pakistan face legal and social barriers to accessing basic rights, such as education, employment, and legal recognition of their gender identity.

One of the main problems faced by intersex people in Pakistan is the lack of protection for their bodily integrity. Intersex individuals face involuntary and non-consensual medical interventions, including genital surgeries and hormone treatments, often without their informed consent. The consent of a parent is presumed to be the consent of the child. Furthermore, the lack of access to appropriate healthcare and support services leaves many intersex individuals without access to affirmative and necessary medical treatment and care.

The impact of discrimination against intersex people in Pakistan is significant, with many individuals facing exclusion and marginalisation in various areas of life. Discrimination in education, employment, and healthcare limits the opportunities and potential of intersex individuals, hindering their ability to lead fulfilling and meaningful lives. Furthermore, the lack of legal recognition of their gender identity and the associated stigma and discrimination can lead to a range of negative mental health outcomes, including anxiety and depression.

Overall, the problems faced by intersex people in Pakistan are significant, impacting every aspect of their lives. Addressing these challenges requires greater awareness and understanding of intersex variations among the public and medical professionals, as well as legal protections and support services for intersex individuals.

## 1.3 Goals and Objectives

The primary goal of this report is to enhance the comprehension of the experience of the intersex community in Pakistan and identify existing mechanisms and protections for intersex persons. The report also aims to map the existing legislative and policy mechanisms relevant to intersex people in Pakistan and analyze their suitability.

Finally, this report aims to provide conceptual frameworks and methodologies to governments and civil society organisations to address the challenges faced by intersex people in accessing health, education, public services, and employment. The objective is to offer actionable recommendations that promote the rights and well-being of intersex individuals in Pakistan.

## 2. Methodology

- 2.1 Literature Review
- 2.2 Meetings and Interviews
- 2.3 Analytical Strategy

## 2.1 Literature Review

The literature review for this study was conducted to understand the current state of knowledge regarding intersex people in Pakistan. The review consisted of two phases: a medical literature review and a review of articles, opinions, and publications by non-profits and think-tanks and news sources. Furthermore, existing and proposed legislation on transgender and intersex persons in Pakistan and judicial precedents of the Pakistan Supreme Court and Pakistan Federal Shariat Court were also referenced to ground the literature review in contemporary polity.

For the medical literature review, a comprehensive search was conducted using the keywords "intersex" and "Pakistan" in Google Scholar. The aim was to obtain all research papers published on the subject. Following a medical review of the literature, two common intersex variations were identified, namely "congenital adrenal hyperplasia" and "androgen insensitivity syndrome". These two terms were used in a subsequent search in Google Scholar to gather more medical reports on intersex in Pakistan.

For the non-journal article review, the same keywords, "intersex" and "Pakistan", were used in both Google and Bing search engines to identify news, op-eds, and reports published over the last five years. The purpose of this search was to gather information on the experiences, challenges, and discrimination faced by intersex people in Pakistan.

The literature review process involved screening the titles and abstracts of the identified articles to determine their relevance to the study. Articles were selected based on their relevance to the study's objectives and inclusion criteria. Inclusion criteria for the review included articles written in English, published in the last five years, and related to intersex issues in Pakistan.

The literature review provided the foundation for the study's findings, and the information gathered from this process helped to shape the interview questions used in the subsequent phase of the study. Overall, the literature review was a critical component of the research process and provided essential insights into the current state of knowledge on intersex people in Pakistan.

## 2.2 Meetings and Interviews

The qualitative data for this research was collected through semi-structured interviews with two key informants and four intersex individuals. The key informants were selected based on their expertise in the medical and legal fields, respectively. The intersex participants were invited through social media platforms, specifically LinkedIn, Twitter, and Facebook, where the researcher posted about the research project and requested individuals who identified as intersex or their loved ones to come forward for an interview.



The researcher received 12 responses, out of which seven individuals self-identified as intersex, while the remaining five individuals were unsure and sought a further discussion on sexuality. Interviews were conducted with the seven respondents who self-identified as intersex. During the interviews, the researcher confirmed that only four participants were certain about their intersex variation, while the remaining three were conflating the term “intersex” with non-heterosexual, transgender, or effeminate behaviours and identities. Therefore, only responses from four of the seven interviews taken have been included in this research report.

The interviews were conducted in a semi-structured format, which allowed for flexibility while ensuring that relevant questions were covered. The interviews were not recorded; however, informed consent was still obtained over email. The interviews were transcribed in a narrative form for analysis. The analysis involved identifying common themes and patterns across the interviews, including experiences of discrimination, social barriers, and access to healthcare, education, and employment. The insights from the interviews were triangulated with the findings from the literature review to provide a comprehensive understanding of the intersex community in Pakistan. Detailed information on the interviews conducted can be found in Appendix B.

## 2.3 Analytical Strategy

The analytical strategy for the interviews involved coding segments of the interviews based on the themes identified in Intersex Asia's research framework. The deductive approach was used to segment all interviews into the ten themes that were previously identified. However, not all interviews reflected all themes, as it is natural for different individuals to have different experiences. Some themes were more represented in the interviews, such as bodily integrity, legal gender recognition, and discrimination, while some were underrepresented, such as emergency policy responses and access to justice.

The next step was to analyze the coded segments for patterns and trends within and across the themes. This was done through a thematic analysis approach, which involved identifying patterns, subthemes, and relationships between codes. The themes and subthemes were further refined and validated by checking for consistency across interviews and consulting with the research team.

Finally, the analysis of the interviews was contextualised within the broader legal, social, and political landscape of intersex rights in Pakistan. This involved looking at the existing laws and policies, civil society initiatives, and public discourse on intersex issues. The findings were then synthesised to provide a comprehensive understanding of the challenges faced by intersex individuals



in Pakistan and the government's and civil society's current efforts to address these challenges. Through this exercise, three meta-themes emerged within which the prevailing discourse and praxis of intersex rights and services are positioned and examined theoretically. Detailed information on these meta-themes can be found in Appendix B.

# **3. Current Civil Society & Government Efforts**

- 3.1 Efforts of Intersex-led Organization**
- 3.2 Governmental Efforts**
- 3.3 Analysis**

### 3.1 Efforts of Intersex-led Organizations

Unfortunately, there are no intersex-led or run organisations in Pakistan. As a result, there is no intersex-specific non-profit organisation or collective in the country. This absence of intersex-led organisations may be due to the politicisation of the term "intersex" by gender-critical and right-wing political movements in Pakistan. This has resulted in the launch of the Intersex Fund, a front for the gender-critical, transphobic, and queerphobic politics of the far-right and gender-critical movement of Pakistan. The Intersex Fund is an initiative launched by a famous gender-critical transphobic commentator, Maria B, and Senator Mushtaq Ahmad, who have repeatedly called for the mandatory surgical "correction" of intersex children <sup>(19)</sup>, vilified self-perceived gender identities, and demonised gender non-binary identities. It is worth noting that many articles and op-eds that use the term "intersex" are, in fact, reporting statistics and stories of transgender and khwajasira persons.

### 3.2 Governmental Efforts

The Transgender Persons (Protection of Rights) Act of 2018 has granted extensive civil rights and liberties to transgender and intersex persons in Pakistan on the basis of gender identity. However, the subsequent Rules of 2020 limit legal gender recognition to X, removing the possibility of male or female identifiers for both intersex and transgender persons. Furthermore, as the Act and subsequent Rules of 2020 govern "gender identity" and not "sex characteristics", it collapses the two into each other, making "gender identity" the proxy indicator for sex characteristics. Thus, for governmental purposes, a transgender or intersex person is one with the X marker on their ID card and is hence eligible for some protections. The Government of Sindh has mandated a 0.5% job quota for all individuals with the X gender marker <sup>(20)</sup>. The province of Khyber Pakhtunkhwa has passed legislation to provide monetary assistance to "transgender" persons through a provincial endowment fund worth Rs. 50 billion, which by law includes intersex people <sup>(21)</sup>. The federally run cash-transfer program titled Benazir Income Support Program now covers all citizens with the X marker, allowing all trans and intersex persons with government-issued ID cards to receive a small cash transfer directly every three months <sup>(22)</sup>. This initiative was launched in January 2023 to provide direct monetary assistance to the khwajasira community, but it extends to intersex people with government-issued IDs as well. However, as no current initiative runs for intersex persons or conforms to the Intersex Statement, no data is collected on intersex persons, and hence, no collated findings exist on intersex persons in Pakistan. The Government of Punjab is running three adult learning schools for transgender persons that are also inclusive of intersex persons and do not require the X marker for enrolment <sup>(23)</sup>. Still, no data exists to prove that intersex people are utilizing these services alongside transgender persons. As government services, except for the schools in Punjab, are limited to persons with an X identity card, many trans and intersex people miss out on the opportunity to avail of these services.

### 3.3 Analysis

The efforts made by the Pakistani government and civil society to protect the rights of transgender and intersex persons are commendable <sup>(24)</sup>. The Transgender Persons (Protection of Rights) Act of 2018 is a significant step towards the protection and recognition of the rights of transgender and intersex persons in Pakistan based on gender identity. However, the subsequent Rules of 2020 that limit legal gender recognition to X, removing the possibility of male or female identifiers for both intersex and transgender persons, is a setback for the intersex community that is pushed into the identity category of “khwajasira”. The absence of intersex-led organisations in Pakistan is a cause for concern and highlights the need for greater representation and visibility of intersex persons, as well as mainstreaming a narrative that differentiates between gender identity and sex characteristics. The launch of the Intersex Fund by a gender-critical and right-wing political movement further politicises the term “intersex” and risks perpetuating the marginalisation of intersex persons.

Intersex Asia

WE DEFEND **Intersex**  
HUMAN RIGHTS IN ASIA



# Intersex Asia Timeline

Intersex movement in Asia started in the 1990s from Japan, develops internationally since 2008 from Taiwan.

# 4. Results and Discussions

- 4.1 Meta Thematic Findings
- 4.2 Findings from the Literature
- 4.3 Filling Gaps from the Literature Review through Key Informant Interview
- 4.4 Gap Analysis
- 4.5 Conclusion



The results section of this report begins by outlining three meta-themes that have arisen from a triangulation of interview and literature review data. Subsequently, we will present detailed findings from each theme, as outlined in the Intersex Asia research framework. The specific findings for each theme are first described from the systematic literature review, highlighting what exists in the current knowledge base and what doesn't. Lastly, we identify gaps in the current literature for each theme and attempt to fill those gaps through the key informant interviews that we have conducted. Thus, our findings are presented in three sub-sections: meta-theoretical themes, literature reviews, and findings from interviews.

## 4.1 Meta Thematic Findings

### 4.1.1 Current political attempts at intersex “governance” are a proxy for reproductive bio-essentialism:

This meta-theme highlights the way in which the religious right-wing and gender-critical anti-feminist movements in Pakistan have coalesced into a transphobic collective that seeks to eliminate all protections for transgender persons while claiming to support intersex individuals. This collective considers intersex people as "sexually disabled" and in need of medical treatment in order to be fixed into a binary gender role, which would allow them to live in a hetero-patriarchal gender-binarised Pakistani society <sup>(25)</sup>.

In essence, the movement's approach to intersex governance is a proxy for reproductive bio-essentialism, as it seeks to enforce traditional reproductive and gender roles through medical gatekeeping and the removal of self-determination of gender identity, even for intersex people. This approach legitimates the idea that the definition of man and woman goes beyond genitalia and chromosomes to how closely one can conform to the reproductive role of male or female in a hetero-patriarchal society.

This meta-theme raises significant concerns about the bodily integrity, autonomy, choice, and liberty of intersex individuals in Pakistan. The movement seeks to embolden the role of the Pakistani State as a reproductive police force, enforcing gender norms and binaries on the citizenry, which could have far-reaching consequences for the rights of all Pakistani people.

The theme suggests that the movement's claims to support intersex people are disingenuous and should be viewed with scepticism. Instead, the movement's approach to intersex governance is part of a broader strategy to undermine protections for marginalised communities, including transgender persons, while reinforcing traditional gender and reproductive roles in Pakistani society.

#### **4.1.2 The transgender versus intersex dichotomy is a rhetorical political instrument to delegitimise gender diversity:**

This meta-theme describes the way in which the transgender and intersex communities are pitted against each other by a transphobic collective, which seeks to delegitimise gender diversity in Pakistan. The transgender community has historically existed in South Asian societies, where they have occupied a unique gender paradigm as the "third gender", which is documented in Vedic scriptures from both the Indus and Gangetic civilisations <sup>(26)</sup>. In post-colonial South Asia, transgender people, known as Khwajasiras in Pakistan and Hijras in India, have enjoyed a tolerated, if not accepted, status <sup>(6)</sup>.

However, the transgender community's existence as a third gender threatens the heteropatriarchal disposition of Pakistani society. The transphobic collective seeks to delegitimise this threat by recoding and translating the Khwajasira as intersex, creating an artificial binary that dichotomises transgender and intersex people as invalid and valid, respectively. In doing so, transgender becomes an abuse, a slur, and an adjective of shame that is applied to trans and gender non-conforming people.

This dichotomy is created as a rhetorical political instrument to delegitimise gender diversity and protect the hetero-patriarchy. By portraying intersex as a desirable category, the collective creates misinformation, stating that it is the English translation of the culturally accepted word "khwajasira". The notes suggest that these rhetorical exercises in delegitimation are an attempt to rescue and protect the heteropatriarchy while damaging and harming intersex people directly.

Overall, this meta-theme argues that the transgender versus intersex dichotomy is a political instrument used to undermine gender diversity and protect heteropatriarchal norms in Pakistani society.

#### **4.1.3 The Islamisation of (anti) gender affirmative care is a biopolitical recoding of heteropatriarchy:**

This theme highlights how the transphobic and gender-critical movements in Pakistan have adopted an Islamic approach to delegitimise gender diversity and uphold heteropatriarchy. The Constitution of Pakistan stipulates that all laws must align with Islam, which is defined and interpreted by the Federal Shariah Court and the Council of Islamic Ideology (CII) according to Sections 203(C) and 228 of the Constitution of Pakistan. However, the CII has been criticised for institutionalizing misogyny and conservatism, as seen in their opposition to laws such as the Transgender Persons Act and the Domestic Violence Bill <sup>(27)</sup>.

The transphobic and gender-critical movements in Pakistan have been using Islam to argue against gender affirmative care, gender dysphoria, and the self-determination of gender. They claim that Islam prohibits Divine creations



from being changed and that transitioning to a different gender and marrying someone of the same sex is considered homosexuality. They have also lobbied for and presented laws such as the "Khunsa (intersex) Act," which criminalises transitioning and invalidates gender dysphoria, effectively Islamizing, pathologizing, and then criminalizing transness and being intersex.

Section 14 of the Khunsa Bill states that "Right to Health: Any sex reassignment surgery or any other treatment to change the genital features of a male or female shall be prohibited on the basis of any psychological disorder or gender dysphoria. Section 3 (2) of the Khunsa Bill states that <sup>(16)</sup>:

"A person recognised as Khunsa under subsection (1) shall have a right to get himself or herself registered as a male or female as per the advice of Medical Board with all government departments including, but not limited to, NADRA."

This biopolitical approach to bodily governance involves colluding bio-essentialism (through medical gatekeeping) with patriarchal Islamic doctrines to further legitimise heteropatriarchy. This contrasts with the Islamic edicts supported by prominent Islamic scholars who favour gender-affirming care and transitioning for both transgender and intersex people <sup>(28)</sup>. The transphobic and gender-critical movements approach is heavily borrowed from the gender-critical and heteropatriarchal movements started by white nationalists and anti-feminists in the West and Global North <sup>(29)</sup>.

In summary, the Islamisation of (anti) gender affirmative care in Pakistan is a biopolitical recoding of hetero-patriarchy, whereby the transphobic and gender-critical movements have adopted an Islamic approach to delegitimise gender diversity and uphold patriarchal power structures. This approach contrasts with the views of Islamic scholars who support gender-affirming care and transitioning for transgender and intersex individuals.

## 4.2 Findings from the Literature

### 4.2.1 Protecting Intersex People's Bodily Integrity:

The Transgender Persons (Protection of Rights) Act of 2018 in Section 2(n) defines a transgender person as follows:

"Transgender Person" is a person who is:

- (i) Intersex (Khunsa) with a 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) Transgender Man, Transgender Woman, Khawajasira 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.'

As already discussed, this definition collapses intersex persons and sex characteristics with transgender persons and gender identity, respectively. However, it is through this specific inclusion that intersex persons are afforded protection under the Act.

The Act in Section 12, titled Right to Health, states that:

“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 the 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.”

A critical reading of these provisions demonstrated that the specific needs of intersex persons aren’t specifically protected in this section, such as the protection of intersex children from excessive genital examinations and gonadal and genital surgeries on intersex children. Moreover, as intersex persons do not always conform to a third-gender identity and may hence want to reproduce or start a family, the right to health under the Act explicitly misses out on fertility treatments and provisions for intersex persons.

As the Intersex Asia statement states in its Demand 5 <sup>(30)</sup>:

“To put an end to mutilating and ‘normalising’ practices such as genital surgeries, psychological and other medical interventions through legislative and other means. Intersex people must be empowered to make their own decisions affecting their own bodily integrity, physical autonomy and self-determination.”

Within this biomedical paradigm, the most comprehensive research on intersex theory and praxis is a thesis submitted by Sara Liaquat to Habib University in 2020 <sup>(31)</sup>. The research provides a critique of the biomedical paradigm, which perpetuates the binary understanding of sex and gender and treats anyone outside the binary as abnormal. The aim of the research was to challenge the dominant hegemonic discourses and misconceptions surrounding intersex genital mutilation and gender-affirming services in Pakistan and to highlight the various healthcare challenges faced by transgender and intersex individuals. The conclusion suggests that delaying surgeries on intersex babies until they hit puberty and encouraging parents to be open to this option would be a strong way forward to formalise surgeries that allow trans individuals to complete their transitions legally and in optimal conditions. Moreover, rejecting the idea that gender is fixed and embracing gender fluidity may represent a solution to allow people greater freedom in exploring who they really are without resorting

to drastic and dangerous cosmetic surgeries. These reforms in medical and surgical education, psychology and counselling, and the administration of law enforcement and justice are essential to protect the vulnerable group of intersex and trans individuals in Pakistan.

The medical studies in this literature review do not speak of self-determination of gender, nor do they provide any mechanism or guidelines to assist intersex people in gender determination. At least one study codes ambiguity in the gender determination of children as a “medical emergency” <sup>(32)</sup>. This lacklustre support for self-determination and acknowledgement of social and parental pressures to “fix” intersex bodies confirms the long-standing argument that intersex people’s bodily integrity is heavily compromised in Pakistan <sup>(33)</sup>.

#### **4.2.2 Protecting Intersex People from Discrimination in all Areas:**

The Constitution of Pakistan in Section 25 (2) states that <sup>(34)</sup> “There shall be no discrimination on the basis of sex.”

The Transgender Persons Act of 2018, in Section 4, Prohibition against Discrimination, states that <sup>(35)</sup>:

“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.

No person shall discriminate against a transgender person on any of the following grounds, namely: -

- (a) the denial of, or discontinuation of, or unfair treatment in, educational institutions and services thereof;
- (b) the unfair treatment occupation; in, or in relation to, employment, trade or
- (c) the denial of, or termination from, employment or occupation;
- (d) the denial of, or discontinuation of, or unfair treatment in healthcare services;
- (e) the denial of, or discontinuation of, or unfair treatment with regard to, access to, or provision or enjoyment of use of any goods, accommodation, service/ facility, benefit, privilege or opportunity dedicated to the use of general public or customarily available to the public;
- (f) the denial of, or discontinuation of, or unfair treatment with regard to the right to movement, safe travel, and use of public facilities of transportation;
- (g) the denial of, or discontinuation of, or unfair treatment with regard to the right to reside, sell/purchase, rent or otherwise occupy, inherit any movable

and immovable property;

(h) the denial of, or discontinuation of, or unfair treatment in, the opportunity to stand for or hold public or private office; or

(i) the denial of access to, removal from, or unfair treatment in, government or private establishment, organisations, institutions, departments, centres in whose care, custody or employment a transgender person may be.”

As is evident, both the Constitution and the Act of 2018, by virtue of its definition of intersex as transgender, protect intersex persons from discrimination in all areas such as education, employment, health, movement, residence, holding public office, and access to services and places.

A study by Mukhtar et al. from 2021 speaks about the exclusion and inclusion of intersex in Pakistani society. However, a careful and critical reading of the paper highlights that the population under study is the indigenous khwajasira people of Pakistan, who are being understood as “intersex” by the researchers<sup>(36)</sup>. The study cites social exclusion as a major determinant in “intersex” quality of life and concludes that the khwajasira cultural values further isolate and exclude its members from mainstream society. This study is an example of how the problems of semantics and cross-cultural and cross-discipline translation of gender and sexual identities end up misreporting and misconstruing the lived realities of transgender and intersex persons. Similarly, another report by Fatima in 2023 does the same; it uses the term “intersex” to describe khwajasiras’ lived experiences while making a case for protecting intersex rights<sup>(37)</sup>. This collusion is detrimental as it transposes khwajasira experiences as intersex experiences. Similarly, a news op-ed by Abbasi in 2022 Islamises the words “intersex” and “transgender”, introducing new Arabic vernacular while pushing for an end to transgender rights while supporting intersex rights. However, his writing is rife with transphobic biases and doesn’t call for protecting intersex bodily integrity and autonomy. Moreover, under the guise of “intersex rights”, it concludes with a call for support for the incoming Intersex Bill by religious hard-liners<sup>(38)</sup>.

#### 4.2.3 Health:

The 1973 Constitution of Pakistan did not mandate health or education as a fundamental right. Thus, the provision of public health or curative care to citizens in need is not legally enforceable, and a major failure of the state is the lack of universal access to reasonable safety nets in health<sup>(39)</sup>.

However, the Transgender Persons Rules 2020 in Section 19, titled Health Services, states the following<sup>(40)</sup>:

“In accordance with Section 12 of the Act, the Division concerned and provincial departments to which business of health stands allocated shall:

(a) Ensure that transgender related health issues and guidelines, included but not limited to, World Health Organisation and World Professional Association for Transgender Health shall be incorporated in medical curriculum

(b) Form policies to allow and increase accessibility of transgender persons

for medical care and attention in hospitals, including but not limited to, gender affirming services; and  
 (c) From time to time, promote gender sensitisation trainings related to transgender persons for all hospital staff to reduce stigmatisation of transgender persons.”

The World Professional Association of Transgender Health issues Standards of Care that detail the ethics, best practices, and standards to provide care to transgender, gender diverse, and gender non-conforming people. The Standards of Care specifically comment on the applicability of the standards on intersex persons – referred to as individuals with “disorders of sexual development” or “DSD”. The Standards of Care specify that not all intersex persons will have gender dysphoria, and if they do, the criteria for treatment, such as age and duration of dysphoria, may not be applied. Instead, physicians should evaluate the intersex person’s specific situation <sup>(41)</sup>. Whether young people are capable of assenting to corrective or voluntary gender-affirming procedures has been a hotly debated issue for both intersex and transgender persons. However, specific policy guidelines already exist to provide respectful and affirmative care to young intersex persons.

The Intersex Affirming Hospital Policies by InterACT and Lambda Legal detail the medical treatment of intersex youth <sup>(42)</sup>. On the ability of young intersex persons to consent, the Policy states that

“A parent or legally appointed guardian of an intersex youth may consent to a medically necessary treatment or procedure on behalf of the intersex youth. Where the intersex youth is of sufficient maturity to understand the nature and risks of the proposed treatment or procedure, the intersex youth should also provide their assent to the proposed treatment or procedure. There is no bright line rule as to the age at which a youth is capable of providing assent. The physician should evaluate the intersex youth’s capacity to make health care decisions, considering the four following elements:

- a) ability to understand basic information about the treatment or procedure;
- b) ability to understand and appreciate consequences;
- c) ability to process information rationally; and
- d) ability to communicate choices.

The intersex youth should participate in decision making commensurate with their development and should provide assent to care whenever possible.”

In Pakistan, specific studies in intersex health have only been conducted through a biomedical perspective without considering the ethics and politics of intersex healthcare. A study by Manzoor et al. in 2019 reviewed 300 cases of children with ambiguous genitalia and concluded that prompt diagnosis of intersex variations is crucial to saving children from life-threatening complications such as renal failure. However, the author also clubs atypical gender assignment and the presence of ambiguous genitalia as a component of the “life-threatening” condition <sup>(32)</sup>. The

study makes no comment on gender determination despite asserting that gender correction is part of the emergency treatment package for intersex children. The study adds to emerging medical consensus in Pakistan against consanguineous marriages, saying that consanguinity increases the “risk” of an intersex birth. Medical arguments against consanguineous marriage are increasing in Pakistan to prevent the births of children with thalassemia and other genetic conditions. A critical reading of this paper alludes that intersex births are also being spoken of as “avoidable outcomes” of consanguineous marriages.

Another case study by Ahsan et al. in 2021 tells medical readers about six “sisters”, all intersex, where two have androgen insensitivity, and 4 have primary ovarian insufficiency <sup>(43)</sup>. The case study describes the endocrinological, genetic, and genital makeup of all siblings and advises physicians to take a familial history of all siblings when they encounter an intersex patient. No comment on gender identification or gender-affirming care is made.

An older study by Hashmi et al. in 2008 charts the case of an intersex-assigned female at birth with complete androgen insensitivity <sup>(44)</sup>. The medical paper concludes by speaking about the benefits of removing testicles through gonadectomy to avoid tumours and complications later, oestrogen therapy, and vaginal dilation. Although the paper doesn’t comment on the ethics of gender determination, it affirms that cases like this can live “normal” feminine lives and that their health should be supported.

A study by Ahmed et al. in 2020 reports another case of an intersex person, assigned female at birth with complete androgen insensitivity, and speaks of decision-making when it comes to gender assignment <sup>(33)</sup>. The paper clearly states that upon diagnosis of 46XY, often parents want masculinizing surgeries for their children without their consent. The paper highlights that gender assignment is a tense decision and results in stigma, stress, and anxiety for the intersex person; hence, the intersex person’s choices should be taken into consideration. However, the paper falls short of concluding with any specific or thorough guideline on gender assignment, self-determination, and consent and instead concludes that the decision-making for gender assignment is a complex process as of now.

A report by Lodhi in 2021 charts the case of an intersex person with diphallia who has experienced bullying and stigmatisation, at the hands of peers and medical professionals both <sup>(45)</sup>. He has been unable to get any surgical care in Pakistan and can’t afford to travel abroad for his surgery. His case highlights the dearth of skilled tertiary care for intersex persons in Pakistan <sup>(43)</sup>.

The mental health of intersex persons is understudied and documented in Pakistani settings. A recent case study by Farrukh and Qamar in 2023 states the utility of narrative therapy with one intersex client <sup>(46)</sup>. The case study highlights that intersex persons may be likely to experience hopelessness, pessimism,



self-blame, victimisation, and learned helplessness. The authors concluded that narrative therapy is a viable psycho-therapeutic method to help intersex persons and calls upon mental health researchers and practitioners to develop a more robust knowledge base on intersex issues to better assist intersex clients.

#### 4.2.4 Education:

The Constitution of Pakistan in Section 25 (A), titled The Right to Education, states that <sup>(34)</sup>:

“The State shall provide free and compulsory education to all children of the age of five to sixteen years in such manner as may be determined by law.”

The Transgender Persons Act 2018, in its Section 8, titled Right to Education, states that <sup>(35)</sup>:

1. There shall be no discrimination against Transgender Persons in acquiring admission in any educational institution, public or private/ subject to fulfilment 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
4. It is unlawful for an institution whether private or public, to discriminate against a person on the ground of a person's sex, gender identity and/or gender expression, including but not limited to:
  - (a) in determining who should be offered admission;
  - (b) or in the terms or conditions on which admission is offered;
  - (c) or 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.

No specific literature on the educational experiences of intersex persons exists in Pakistan. Although, incidents of bullying by peers and fellows in schools are reported in at least one case study of an intersex person <sup>(43)</sup>. Furthermore, experiences of exclusion of “intersex” persons reported in studies are, in fact, exclusion of transgender persons, again recoding khwajasira experiences as intersex experiences <sup>(36)</sup>.

#### 4.2.5 Hate Crime and Hate Speech

Hate speech (and crime) against people or groups based on sex, sex characteristics, and gender identity or expression isn't a criminal offence. No Constitutional or specific legal provisions exist to protect transgender and intersex persons from hate speech directly.

Although no study or report exists on hate speech against intersex persons directly, there is sufficient documentation of transphobic hate speech and its impacts in Pakistan on gender non-conforming, gender inordinate, and transgender persons in Pakistan. The recent hate campaigns being run online often deploy an intersex versus transgender dichotomy, reflected in an op-ed by Abbasi that seeks corrective procedures for intersex persons without gender self-determination while also demonizing and dehumanizing transgender persons <sup>(38)</sup>.

Media reports on the Sindh Moorat March, Pakistan's first political and indigenous transgender rights march held in Karachi in November 2022, also speak of the rising hate speech and hate campaigns against transgender persons <sup>(53) (54)</sup>. One of the core demands of the Sindh Moorat March was the protection and guarantee of gender self-determination for all trans and intersex people. Sindh Moorat March was held in November 2022 and was Pakistan's first indigenous and political march for the rights of khwajasira, transgender, and gender-diverse people.

#### 4.2.6 Gender Marker Registration at Birth

In Pakistan, the National Accounts and Database Registration Authority allows parents of children to obtain their Children Registration Certificates (CRC) that bear the child's name, date of birth, place of birth, gender, unique registration number, and their parents' names and registration numbers. Since June 2002, parents have been able to obtain this CRC through any NADRA office, with the prerequisite being that the parents must hold valid Computerised National Identity Cards (CNIC) of Pakistan <sup>(47)</sup>.

Although no direct study on gender marker registration at birth exists for intersex persons in Pakistan, the medical literature confirms that all intersex births are given a male or female gender marker at birth. This marker is carried on a form called a "Birth Form" or "Birth Certificate" that hospitals and maternity care units give to parents upon the birth of a child. Prior to CRC, these birth forms were used to register births with NADRA and provide parents with a "Form B". This has now been replaced with the CRC provision, which doesn't require a birth certificate.

Since the promulgation of the Transgender Persons Act 2018, the NADRA database has more than two gender options to register on the CRC. However, data and literature sources point towards no specific cases where a gender marker besides male or female was used for a child. The gender marker on your CRC or Form B is the marker that continues by default when you obtain your CNIC as an adult. For example, if assigned female at birth, a case study on the intersex individual would read as "intersex female patient" or "female patient with ambiguous genitalia" in literature. Using such a critical reading approach to medical literature, the researchers deduced that intersex children are given a gender marker at birth from within the male-female binary in Pakistan.



### 4.2.7 Legal Gender Recognition

Section 3 (2) of the Transgender Persons (Protection of Rights) Rules 2020 states that <sup>(40)</sup>:

“NADRA shall register the name and gender of an applicant to “X”, in accordance with his self-perceived gender identity.”

A critical reading of the Transgender Persons (Protection of Rights) Rules of 2020 confirms that all transgender and intersex persons can only get the X gender marker on their national IDs. This is being further challenged by the not-yet-passed Khunsa Bill that seeks to eliminate the X gender category and constitute a 5-persons medical board that will determine an intersex person’s gender regardless of the self-perceived gender identity of the intersex person, as already discussed earlier.

As of now, the law in Pakistan only allows transgender and intersex persons to get their gender marker changed from the sex assigned at birth to a gender-neutral X marker.

### 4.2.8 Access to Justice and Redress

As per Section 18 of the Transgender Persons Act 2018, titled “Enforcement Mechanisms”, aggrieved intersex persons have the right to move a complaint with three specialised Federal level offices. The Section states that <sup>(35)</sup>:

“In addition to the remedies available under the Constitution or Pakistan Penal Code 1860, Code of Criminal Procedure, 189B or the Code of Civil Procedure 1908, the aggrieved transgender person shall have a right to move a complaint to the Federal Ombudsman, National Commission for Status of Women and National Commission of Human Rights (NCHR) if any of the Rights guaranteed herein are denied to him or her.”

No direct studies exist pointing to specific cases of intersex people in the court system of Pakistan or in professional and informal settings. Similarly, since the promulgation of the Act of 2018, the Federal Ombudsman and the National Commissions on Status of Women and Human Rights have reported no redressal or complaints by intersex people.

### 4.2.9 Data Collection: Addressing Research Gaps

In 2017, Pakistan concluded its sixth Population and Housing Census, counting “transgender” people for the very first time. The Census reported that 10,418 transgender persons live in Pakistan <sup>(48)</sup> – a number rejected by all community-based organisations and activists as too low <sup>(49)</sup>. In May 2023, the Government of Pakistan concluded its first Digital Census in the province of Sindh, reporting a 35% decline in the total population of transgender persons <sup>(50)</sup>. The governing policy of the Pakistan Statistics Bureau on enumerating people based on gender

is unclear. However, existing literature suggests that census enumerators assume a person's gender when conducting the census. This results in many khwajasira, and transgender people being counted as men or women and not the designated third gender. Intersex persons are clubbed together with transgender persons, so theoretically, even if an intersex person is identified, they are counted as the third gender. The data for transgender persons in the Census is not disaggregated further, and thus, estimating the count of intersex persons through the Census is not possible.

The literature review for this report identified major lacunae in the use of intersex, hijra, transgender, and khwajasira semantics. As already discussed in depth, the word "intersex" is now being used as a politically and rhetorically acceptable term in replacement of transgender. Moreover, hate campaigns in Pakistan have recoded the word "khwajasira" to mean "intersex" in English, which further perpetuates the practice of reporting khwajasiras lives and realities as intersex issues. This suggests that care and criticality should be deployed when analysing data on "intersex" people coming out of Pakistan, as most of it is used as an incorrect replacement for "transgender" and "khwajasira".

#### 4.2.10 Inclusion in Emergency Responses

Although development sector news bites and plans use the term "intersex" while reporting transgender and intersex inclusion in emergency responses, there is no grey literature or evaluation reports confirming the meaningful participation of intersex persons in emergency policy responses <sup>(51)</sup>. According to one news report, the Federal Shariat Court, during its hearing against the Transgender Persons Act 2018, instructed the government to open safe homes for "intersex" persons. However, a critical appraisal of the court order confirms that the term "intersex" here is being used as a politically expedient term to recode "khwajasira" and "transgender" <sup>(52)</sup>.

## 4.3 Filling Gaps from the Literature Review through Key Informant Interviews

The interviews conducted served two purposes:

- A. To confirm the findings of the literature
- B. To elicit responses where gaps in the literature existed

Thematically, the following questions and approaches emerged from the literature review that guided both our interviews and subsequent triangulation analysis.

- On bodily integrity, do intersex persons experience intrusive, non-consensual, and harmful medical practices due to being intersex?
- What aspects of discrimination do intersex people experience during different times in their life?

- What is the experience of intersex people in the health sector of Pakistan?
- What is the experience of intersex people with education and educational settings in Pakistan?
- Are there specific incidents or aspects of hate crime and hate speech against intersex persons in Pakistan?
- What gender marker is given to intersex people in Pakistan at birth?
- What is the status of legal gender recognition for intersex persons in Pakistan?
- What is the experience of intersex persons in accessing justice or criminal and civil redress?
- What are the research and data collection gaps in current practices that harm intersex persons?
- What is the experience of intersex people during national emergencies? Are their voices included in emergency policymaking?

### 4.3.1 Protecting Intersex People's Bodily Integrity:

The combined analysis of literature and interview-based data elucidates the complexities surrounding the protection of intersex people's bodily integrity in Pakistan. The literature review highlighted the legislative gaps in the Transgender Persons (Protection of Rights) Act of 2018 that inadvertently blur the distinction between intersex and transgender individuals, therefore failing to cater to the unique needs of the intersex population.

The direct experiences of the interviewees echo these findings, underlining the prevalence of non-consensual medical practices and violations of bodily autonomy. For example, one participant, R, shared,

“ I changed my documents from female to male soon after the Act was passed in 2018. But the constant public scrutinisation while altering my official documents was an uncomfortable process, infringing on my privacy and causing emotional distress. I was repeatedly asked questions about my genitalia and private parts when I was simply getting my documents updated. ”

Another interviewee, J, recalled the disconcerting lack of respect during a routine medical examination, stating,

“ I went for a hospital visit during COVID, and my attending doctor told me that she wants to do an ultrasound on me. During my ultrasound, the doctor figured out that I was intersex and insisted that she performs a genital examination on me while I was there just for my COVID work. ”

These narratives illuminate the grim reality of inadequate understanding and empathy among healthcare professionals. As articulated by another interviewee A\*,

“ I had Hodgkins (a type of blood cancer) and was undergoing treatment. On one of the treatment days my endocrinologist examined my genitalia without explaining the procedure or seeking my consent. I felt violated. ”

S\*, another interviewee, also voiced frustration over societal ignorance and pressures,

“ My female doctor friend took me to a doctor to get me fixed after I told her I was intersex. I was administered injections without any explanation of their purpose, which only enhanced my feeling of alienation. ”

Corroborating the literature's critique of the biomedical paradigm's emphasis on binary gender norms, Dr. Yasir pointed out the systemic knowledge gap among medical providers and the detrimental effects of societal and parental pressures. She noted,

“ Our hospitals begin gender coding at birth, promoting the dichotomy of blue for boys and pink for girls. The preference for male children often overrides medical ethics, leading to non-consensual genital mutilation of intersex infants. ”

Drawing on the insights from the literature review, the testimonies of intersex individuals like R, J, A\*, and S\* affirm the pressing need to prioritise the bodily integrity of intersex people in Pakistan. It is clear that there is an urgent need for legislative changes to ensure proper recognition of intersex individuals and reforms in medical education, psychology, counselling, and legal enforcement to safeguard their rights. The work of Sara Liaquat offers a constructive way forward<sup>(31)</sup>, emphasizing the importance of delaying surgeries until the individual can consent, advocating for gender fluidity acceptance, and rejecting harmful and unnecessary cosmetic surgeries. Her research provides a beacon for potential reforms to protect this vulnerable group.

In conclusion, the protection of intersex people's bodily integrity in Pakistan necessitates a multipronged approach, addressing societal norms, medical ethics, legal rights, and awareness and education around intersex variations. The testimonies of intersex individuals and key informants underscore the crucial need for such measures.

#### 4.3.2 Protecting Intersex People from Discrimination in All Areas

From the interviews conducted on the subject of protecting intersex individuals from discrimination in all areas in Pakistan, it is clear that discrimination and prejudice extend into many aspects of their lives, including their homes, schools,

workplaces, and interactions with healthcare providers.

In the medical field, discrimination is evident. According to Dr Yasir, intersex individuals often face discrimination within the healthcare system due to immense knowledge gaps among medical and clinical providers. Such practices indicate a profound disregard for the rights and bodily autonomy of intersex individuals, reflecting attitudes that may be prevalent throughout society. She stated,

“Doctors in Pakistan often prioritise parental wishes over medical ethics, often complying with patriarchal desires to turn intersex babies into 'full males'. Intersex genital mutilation in childhood is common, leading to serious physical and psychological harm.”

Education is another area where intersex individuals encounter discrimination. R, an intersex person, shared, *"Due to my condition, I could not pass my Matric exams and was pulled out of school by my family."* This experience resonates with a study by Mukhtar et al. (2021), which also cites social exclusion as a significant determinant in intersex quality of life.

Discrimination also pervades the realm of employment. As S\* shared, *"I have a government job and have to hide my true gender expression to avoid discrimination."* This need to conceal one's true identity for fear of discrimination is consistent with existing literature, such as the Transgender Persons Act of 2018, which recognises the unfair treatment of transgender and intersex individuals in the workplace.

The bias extended to the family domain, as well. A\* reported,

“I was bullied a lot by my family, and my brother especially, for my outwardly feminine appearance. This got so bad that I had to drop out of school and I did my entire education online, because every time I left home my brother and family would chide me for not being manly enough.”

Regarding the political climate and its effect on intersex individuals, J voiced concern about new amendments being made to the Transgender Act in Pakistan: *"Intersex people are unsafe due to the new amendments being made to the Transgender Act in Pakistan."* This apprehension about legislation that could potentially infringe on the rights and protections of intersex people echoes the concerns raised by Fatima<sup>(37)</sup> in her report about the protection of intersex rights. These testimonies underscore the pervasive nature of discrimination against intersex individuals in Pakistan and the need for comprehensive protective measures. They align with existing legislation and literature, including the Constitution of Pakistan and the Transgender Persons Act of 2018, which prohibit discrimination on the basis of sex and gender identity. However, they also reveal

the distance yet to be covered in implementing these laws and changing societal attitudes towards intersex individuals.

### 4.3.3 Health

From the legislative perspective, Pakistan has not historically placed an emphasis on health as a fundamental right, which has resulted in a lack of universal access to public health services (Laghari, 2020). However, recent developments such as the Transgender Persons Rules 2020 make provisions for transgender health, which could potentially encompass intersex individuals, given the appropriate interpretation and application. Yet, despite global guidelines existing for the medical treatment of intersex individuals, a close examination of the medical literature and research in Pakistan suggests a significant gap in respectful, informed, and rights-based intersex health care.

One of the interviewees, R, expressed his desperation when talking about his experiences in the health sector. R said,

“ I've been longing for a surgery to reform my ambiguous genitalia, but the lack of skilled specialists in Pakistan has left me in a constant state of discomfort and insecurity. I can't even afford to travel abroad for the surgery. ”

Similarly, J expressed their longing for expert advice on understanding their body, saying,

“ Living as an intersex person in Pakistan is a journey of unanswered questions. We don't have health specialists who understand our bodies, our health issues. It's as if we're forced to become our own doctors. ”

Healthcare's lack of affirmation and respect for intersex individuals' gender identities is a major issue, as evident from A\*'s interview. A\* appreciated the doctors who treated her with dignity during her Hodgkin's treatment, recounting,

“ During my treatment, the doctors asked me about my preferred gender pronoun. They guided me through each step, ensuring I felt comfortable. I just wish my family was as understanding and respectful as my doctors. Their hurtful remarks still haunt me. ”

Language barriers also exacerbate the problems faced by intersex people in healthcare. S\* felt shy and uncomfortable discussing his gender identity due to a lack of appropriate terms, stating,

“ Conversations about my gender identity are so difficult when there aren't the right words to express how I feel. I find myself feeling shy, embarrassed, and sometimes even scared to talk about it. ”

Dr Yasir also shared insights into the prevalent intersex variations in Pakistan, stating,

“ Conditions like Clitoromegaly are quite common in intersex patients in Pakistan, but we need to understand and treat these cases from a human rights perspective. We must recognise clitorrectomy as a form of female genital mutilation and find ways to address this issue in our clinical practice. ”

In conclusion, while there are existing rules that aim to address health issues for transgender persons, there remains a lack of specific, informed, and respectful healthcare services for intersex people in Pakistan. There is a clear need for advancements in medical understanding, social support, and legislative backing to ensure the health and well-being of intersex individuals in the country.

#### 4.3.4 Education

Access to education is a fundamental human right enshrined in the Constitution of Pakistan. While the Transgender Persons Act 2018 makes explicit provisions against discrimination in education for transgender persons, there's an evident gap when it comes to addressing the specific needs of intersex individuals within the Pakistani educational system.

R's interview brings forth the emotional and psychological struggles that intersex individuals often go through during their educational journey. R struggled academically, with the anxiety associated with his intersex variation overwhelming him to the point of academic failure, leading him to drop out after unsuccessful attempts at his Matric exams. His story underscores the need for robust mental health support systems within educational institutions to accommodate intersex students effectively.

J's experiences, on the other hand, highlight the pressing issue of non-inclusive environments in educational settings. Even though he identified as male, J was placed in a girls' hostel during his university years. This inappropriate housing situation only added to his feelings of alienation and discomfort. He shared,

“ Being forced to live in a girls' hostel, while I identified as a male, was a constant reminder of how the system failed to recognise my identity. It was like living a daily ordeal. ”

A\*'s educational journey is an example of the barriers intersex individuals can



face in accessing education. The lack of suitable facilities and accommodations in mainstream institutions led A\* to seek private tutoring and enrol in an online university, reflecting the gaps in Pakistan's education system regarding intersex inclusivity. A\* elaborates,

“ I had to resort to online learning and private tutoring because mainstream educational institutions just didn't seem ready to accommodate someone like me. ”

The collective experiences of intersex individuals in Pakistan's education system highlight significant challenges, including mental health issues, a lack of inclusivity, and barriers to accessing education. To address these, Pakistan's education system needs a thorough review with the aim of enhancing intersex awareness, understanding, and inclusivity. It's important to develop and implement policies that ensure intersex individuals have equal access to safe, supportive, and inclusive educational environments.

#### 4.3.5 Hate Speech and Hate Crime

In Pakistan, the legal and social landscape is critically wanting in terms of protections against hate crime and hate speech, specifically targeting intersex and transgender individuals. Although not criminalised, the repercussions of such hate speech and crime on the well-being and mental health of the victims are profound and far-reaching.

R's story, while not explicitly mentioning hate crime or hate speech, paints a vivid picture of the discrimination and harassment he faced as an intersex individual. His experiences reflect the lack of understanding and acceptance of intersex people within Pakistani society and point towards the urgent need for legal protections. J's experiences reflect how societal attitudes, in conjunction with gaps in legal protection, can contribute to the perpetuation of hate crimes and hate speech against intersex individuals. He was subjected to indignities due to a lack of recognition of his gender identity by educational institutions and healthcare providers.

A\* voiced her concerns about the amendments made to the Transgender Persons Act of 2018, which she sees as a step backwards for the protection of intersex and transgender individuals. She also emphasised the dehumanizing and intrusive nature of medical examinations required for gender determination. A\* said,

“ We are human beings, and our gender identities should be respected, not dissected in a medical examination room. ”

Dr Sana Yasir, an activist and scholar on intersex issues, commented on the prevalence of digital and online hate speech against intersex people, particularly children.



*“ When I started advocating for the protection of intersex individuals from harmful practices such as non-consensual surgeries and genital mutilation, all pediatric surgeons would stare at me in shock. They told me that this is not what they had heard. What they had heard was that children need to be fixed so that they can be saved from violence. It is fascinating how our society takes up all of its transphobia and projects it onto kids and children and says, ‘Oh, we are saving our kids’ when they are, in fact, harming them. ”*

In summary, the interviews illustrate the varying reality of hate crime and hate speech faced by intersex individuals in Pakistan. The narratives strongly suggest that societal misconceptions, coupled with inadequate legal protections, contribute significantly to the marginalisation and stigmatisation of intersex people. To address these issues, it is paramount to foster understanding and acceptance of intersex individuals in Pakistani society and enact comprehensive laws and policies to safeguard their human rights.

#### 4.3.6 Gender Marker Registration at Birth

Gender marker registration at birth in Pakistan presents significant challenges for intersex individuals, particularly regarding their ability to alter their assigned gender marker in line with their identified gender. This theme emerged consistently across our interviews, indicating an urgent need for reform.

R, assigned female-at-birth, shared their distressing experience:

*“ Despite identifying and living as a man, the process of changing my name and gender marker on official documents was filled with countless challenges. It was an ordeal that no one should have to go through. ”*

J's case further underscores this issue. Despite identifying as male, J's identification card still displays their feminine dead name and female gender marker. J expressed the frustrations linked with this discrepancy:

*“ It's difficult when your official identity doesn't reflect who you truly are. It's not just about the administrative inconvenience; it's about being recognised for who I am. ”*

A\* highlighted her aspirations for a female gender marker, a desire currently unfulfilled by Pakistani policy:

*“ The 'X' marker does not reflect my identity. I wish I could have a female gender marker on my ID card to truly mirror who I am. ”*

Dr. Sana Yasir brought attention to the early onset of gender coding in Pakistani society:

“ Although the initial assignment of a gender marker to intersex children may seem innocuous, the obstacles in altering this marker later in life create unnecessary hardships. ”

This collective narrative underscores the need for a more inclusive and flexible system for legal gender recognition in Pakistan. It should respect intersex individuals' gender identities and enable them to change their gender markers on official documents easily. A reformed system would significantly reduce the risk of discrimination and harassment arising from a mismatch between assigned gender markers at birth and individuals' identified gender.

#### 4.3.7 Legal Gender Recognition:

The discussions with our interviewees underscore the challenges intersex individuals face in legal gender recognition in Pakistan. The experiences shared echo the urgent need for an inclusive and flexible system.

R's personal experience emphasised the existing problems in the legal gender recognition process.

“ The hassle I had to go through to change my name on my official documents was immense. The system should respect individuals' self-determined gender identity without forcing them through such a complex process. ”

J's account similarly highlighted the need for recognition beyond the third gender system. They asserted,

“ The existing laws put intersex people in a difficult position. We don't fit into the traditional binary sex characteristics but are forced into one of them by the state and society, and that goes against our desire, too. There should be recognition and respect for non-binary identities as well as binary identities of intersex people. ”

A\* drew attention to the recent amendment made to the Transgender Persons Act of 2018, expressing her concerns:

“ The amendment is essentially transphobic and is a step backwards. The requirement for a panel of five people to determine one's gender marker is intrusive and takes away our autonomy. The law needs to respect our self-identified gender. ”

These accounts underline the immediate need for a legal gender recognition framework in Pakistan that is more accommodating and respects self-determined gender identities. There is a pressing need for policies that offer protection to intersex individuals from societal discrimination and violence while providing them with the space to self-identify their gender.

#### 4.3.8 Access to Justice and Redress

Navigating the justice system can be particularly challenging for intersex individuals in Pakistan, as illuminated by the interviewees' experiences and concerns. Due to the perception that the justice system is slow, corrupt, and ineffective, intersex people do not usually engage with legal processes unless absolutely necessary. These personal narratives reveal the obstacles they face when attempting to secure justice or seek redress.

R voiced a crucial point regarding the current system, stating,

“ *There is a dire need for enhanced awareness and understanding of intersexuality among legal professionals in Pakistan. Without this, we face significant barriers when attempting to access justice or seek redress for the discrimination we encounter.* ”

J's harrowing experience of being deceived into a gender and genital examination underscores the challenges intersex individuals face when their bodily integrity is violated. They said,

“ *It's crucial that we, as intersex people, have a reliable system for accessing justice and redress in cases like these.* ”

A\*'s experience in having to contact the police after an assault from her brother further emphasises the struggle intersex individuals face in accessing justice. She shared,

“ *The societal mindset, largely heteronormative and rigid, restricts our access to justice and redress. We need mechanisms that can effectively protect us from violence and discrimination.* ”

Dr Yasir affirmed the need for stronger legal frameworks and protections, saying,

“ *The few religious scholars in Pakistan who support gender-affirming procedures for trans and intersex people are not enough. We need legal structures that respect the gender identities of intersex individuals and ensure their access to justice and redress.* ”

These testimonies collectively spotlight the crucial need for a more understanding, inclusive, and effective legal system that ensures intersex individuals in Pakistan can access justice and redress when their rights are violated.

#### 4.3.9 Data Collection: Addressing Research Gap

Data collection and research on intersex individuals in Pakistan are currently insufficient and misinterpreted, leading to various misconceptions and a general lack of understanding. The interviewees' shared experiences shed light on this crucial issue and underscore the need for rigorous research and data collection that accurately reflect the realities of intersex individuals in Pakistan.

R articulates the issues surrounding the data collection succinctly,

“ *There's a dearth of research on intersex individuals in Pakistan. Accurate data collection is essential in addressing our unique challenges and needs.* ”

J's experience further emphasises the need for comprehensive research. They stated,

“ *Our experiences as intersex individuals remain largely unexplored. By delving deeper into these experiences, we can fill these research gaps and improve understanding.* ”

Echoing these sentiments, A\* expressed concern over the lack of understanding among her family members.

“ *There's a void of data regarding the familial and communal experiences of intersex individuals," she shares. "By gathering this information, we can enhance comprehension of the challenges we face, which could inform policies and programs aimed at supporting us.* ”

Dr Yasir also highlighted the importance of better data collection and research, saying,

“ *Medical literature primarily focuses on case management in tertiary care settings, which doesn't help the intersex community understand themselves better. More comprehensive research and data collection are needed for that.* ”

In conclusion, it is evident that concerted efforts are necessary to address the research gaps and improve data collection practices regarding intersex individuals in Pakistan. By understanding their unique experiences and challenges more accurately, policies and programs can be developed to better support and protect their rights.

#### 4.3.10 Inclusion in Emergency Policy Response

The inclusion of intersex individuals in emergency policy response is lacking in Pakistan, which was clearly reflected in the interviewees' shared experiences. Intersex individuals are particularly vulnerable during national emergencies and disasters, and the current responses often disregard their unique needs and challenges.

R emphasised the pressing need for inclusive emergency policies by saying,

“ *Our challenges, like discrimination and lack of access to appropriate healthcare and education, are exacerbated during emergencies. We need policies that take these into account.* ”

J, who had a distressing experience during the COVID-19 pandemic, further highlighted the vulnerabilities faced by intersex people during crises.

“ *My involuntary genital exam during COVID-19 was a blatant violation of my rights. It shows how easily our bodily autonomy can be compromised in emergency situations.* ”

A\* discussed the broader context of a hostile and transphobic political environment, stating,

“ *Hateful opinions have become rampant. This not only targets trans individuals but also other gender-diverse groups, including intersex people like me. It's a dangerous situation that needs to be addressed in emergency policies.* ”

Dr Yasir, shedding light on the current state of emergency policies, shared,

“ *Intersex people are often left out of emergency policy responses in Pakistan. It's crucial to recognise them as a vulnerable population and ensure their inclusion in policy responses.* ”

To conclude, there is a pressing need for comprehensive emergency policies that are inclusive of intersex people in Pakistan. Policymakers should recognise intersex people as a vulnerable population, understand their unique challenges, and take proactive measures to ensure their safety and well-being during emergencies.

## 4.4 Gap Analysis

The gap analysis section of this report aims to identify the specific gaps between existing government efforts and the actual needs of intersex people in Pakistan. The objective is to analyse why these schemes, policies, and efforts are ineffective or inadequate in addressing the issues faced by intersex people. The analysis will highlight critical gaps, oversights, limitations, incompetence, and the role of corruption in creating such gaps.

### 4.4.1 Self-Determination and Rights

Intersex people require the right to self-determine their gender identity without force, intimidation, or medical gatekeeping. They, along with trans people, should have the right to identify as “male” or “female” rather than just as “X”, as is currently the case. Forcing intersex people out of the gender binary system medicalises and pathologises natural sexual diversity. Furthermore, it perpetuates harmful stereotypes about intersex persons, taking away from them the chance to live a life of dignity and respect. However, intersex people are often falsely pitted against trans people, and there are no protective mechanisms against harassment or discrimination against intersex people. This highlights a significant gap in the legal framework for intersex people in Pakistan. The government needs to enact laws and policies that protect the rights of intersex people, including their right to self-determine their gender identity. Additionally, existing laws should be expanded to include specific protections for intersex persons, such as instituting intersex-affirming standards and ethics of care and preventing unnecessary medical interventions on intersex children.

### 4.4.2 Knowledge and Ethics Gaps in Clinical Care

Despite a detailed code of conduct and ethics for medical professionals, there are serious knowledge and ethical gaps among care providers when it comes to intersex care. Medical standards must be designed and implemented thoroughly at all tertiary care sites to prevent intrusive and unnecessary medical tests of intersex people and provide gender-affirming care of their choice. The lack of proper training and education of healthcare professionals in intersex care, including surgeries and hormone replacement therapy, is a significant gap that needs to be addressed urgently.

### 4.4.3 Disease-Disability Framework

The disease-disability framework that frames intersex people as sexually disabled needs to be eliminated rhetorically from all political and biomedical discourse as it reifies the intersex body as a pathological site. This framework invites biomedical and biopolitical instrumentation, leading to unnecessary medical interventions and psychological harm. Instead, the medical and political rhetoric needs to be revitalised to celebrate intersex and bodily diversity alongside gender diversity. The government needs to create awareness programs that promote a positive attitude towards intersex people, highlighting their contributions to society and respecting their dignity as human beings.

## 4.5 Conclusion

In conclusion, the gap analysis highlights that the existing government efforts in Pakistan are ineffective in addressing the issues faced by intersex people. There are significant gaps in the legal framework, knowledge and ethical gaps in care, and a need to eliminate the disease-disability framework that reifies intersex bodies as pathological sites. These gaps and limitations need to be addressed urgently, and the government needs to enact laws and policies that protect the rights of intersex people and promote their dignity as human beings.



# 5. Recommendations, Scope & Strategy for Implementation

- 5.1 Recommendations
- 5.2 Scope
- 5.3 Strategy for Implementation

## 5.1 Recommendations

Based on the findings of the report, we make the following recommendations to the Government of Pakistan and Community Support Organisations to improve the situation of and protect intersex persons in Pakistan:

### ■ For the Government of Pakistan

#### 5.1.1 Amend the Transgender Persons Act 2018 and Rules 2020:

Section 2(n) of the Transgender Persons Act 2018 should be amended to de-link intersex persons from transgender, eunuch, and khwajasira identities. Furthermore, Section 3 (2) of the Transgender Persons Rules 2020 needs to be amended to allow for gender identification as male and female, in addition to X. This will allow intersex and transgender persons to identify with their preferred gender, which is a basic human right. The amendment should be accompanied by mass awareness programs through digital and social media, highlighting the Islamic edicts that support gender-affirming care and transition. This will help counter the disinformation and hate speech spread by gender-critical digital media.

### ■ For The Government of Pakistan & Community Support Organizations

#### 5.1.2 Develop a comprehensive training module on trans and intersex healthcare

Develop a comprehensive training module on trans and intersex healthcare: The Pakistan Medical Association and the College of Physicians and Surgeons Pakistan should create a comprehensive training module on trans and intersex healthcare. The module should be piloted and given as a credited Continuing Medical Education option to postgraduate medical trainees to incentivise them to take it, as it will contribute to their postgraduate training. This will create a critical mass of trained medical professionals who can provide competent and sensitive care to intersex and transgender persons.

### ■ For Community Support Organizations

#### 5.1.3 Counter the disease-disability framework:

There is a need to counter the disease-disability framework prevalent in medical discourse by publishing op-eds in newspapers, editorials, and commentaries in medical journals in Pakistan. This will contribute to changing the rhetoric and discourse from correction to diversity and celebration, which will help promote the acceptance of intersex persons in society. This may require the development of a professional body or interest group that produces such knowledge products. They can be incentivised through some monetary support or support for publication fees towards journals. A source of funding for this professional body and interest groups can be identified alongside targeted grants given by all CBOs, NGOs, and interest bodies currently working on transgender and intersex rights.

## 5.2 Scope

Implementing the recommendations mentioned above can have a significant impact on intersex persons in Pakistan, both socially and economically. The proposed amendments to the Transgender Persons Act 2018 and Rules 2020 will help intersex and transgender persons to identify with their preferred gender, which will have positive psychological and social impacts. They will be able to access social services, education, healthcare, and employment opportunities, which they were previously excluded from. This will increase their economic participation and contribute to the country's overall economic growth.

Developing a comprehensive training module on trans and intersex healthcare will have a significant social impact. Medical professionals will be better equipped to provide competent and sensitive care to intersex and transgender persons, which will lead to improved health outcomes and better quality of life. This will increase the trust of intersex and transgender persons in the healthcare system and reduce their social exclusion.

Countering the disease-disability framework will have positive social and economic impacts. By changing the rhetoric and discourse from correction to diversity and celebration, society will become more accepting of intersex persons, leading to reduced stigma, discrimination, and social exclusion. This will promote their economic participation and contribute to the country's overall economic growth.

## 5.3 Strategy for Implementation

**Recommendation:** Amend the Transgender Persons Act 2018 and Rules 2020

**Scope:** The first recommendation aims to amend the Transgender Persons Rules 2020, which would require engaging with relevant government officials and authorities such as the Ministry of Human Rights, the National Commission on Human Rights, and the National Assembly. Additionally, the mass awareness programs through digital and social media would require coordination with social media companies, digital marketing agencies, and human rights organisations.

**Flowchart:**

1. Initiate a proposal to amend the Transgender Persons Act 2018 and Rules 2020
2. Approach the Ministry of Human Rights, the National Commission on Human Rights, and the National Assembly to discuss the proposal.
3. Analyze the feasibility and scope of the amendment with different ranks in progressive political parties such as the Chairpersons and Parliamentary Secretaries of Pakistan People's Party Parliamentarians (PPP-P), Muttahida Qoumi Movement (MQM), and possibly Pakistan Muslim League Nawaz (PML-N).
4. If approved, draft the amendment to the Transgender Persons Act 2018 & Rules 2020.

5. Review and finalise the amendment.
6. Launch mass awareness programs through digital and social media platforms.
7. Coordinate with social media companies, digital marketing agencies, and human rights organisations
8. Monitor the impact of the amendment and awareness programs through data collection and analysis.

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**Recommendation:** Develop a comprehensive training module on trans and intersex healthcare

**Scope:** This recommendation aims to improve the quality of care provided to intersex and transgender persons by creating a critical mass of trained medical professionals in Pakistan. The training module will be created in collaboration with international organisations to ensure that it meets global standards of care.

**Flowchart:**

1. Approach the Pakistan Medical Association and College of Physicians and Surgeons Pakistan with the recommendation.
2. Discuss the need for creating a comprehensive training module for intersex and transgender healthcare.
3. Analyze the feasibility and scope of the recommendation, including time process and budget, with representatives from relevant departments.
4. Develop the training module in collaboration with international organisations such as the World Professional Association on Transgender Health and the American Psychiatric Association.
5. Pilot the training module with postgraduate medical trainees.
6. Offer the training module as a credited Continuing Medical Education option to incentivise postgraduate medical trainees to take it.
7. Train a critical mass of medical professionals who can provide competent and sensitive care to intersex and transgender persons.
8. Evaluate the effectiveness of the training module and make necessary revisions to ensure it remains relevant and up to date.

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**Recommendation:** Counter the disease-disability framework

**Scope:** This recommendation focuses on changing the medical discourse related to intersex persons in Pakistan. The aim is to shift the focus from correcting intersex traits to celebrating diversity and promoting the acceptance of intersex individuals in society. This recommendation proposes the creation of a professional body or interest group to produce knowledge products such as op-eds, editorials, and commentaries. This would require identifying a source of funding for the professional body and targeted grants given by all CBOs, NGOs, and interest bodies working on transgender and intersex rights.

**Flowchart:**

1. Identify a professional body or interest group responsible for producing knowledge products such as op-eds, editorials, and commentaries.
2. Develop a plan to incentivise the professional body or interest group through monetary support or support for publication fees towards journals.
3. Identify a source of funding for the professional body.
4. Identify targeted grants given by all CBOs, NGOs, and interest bodies working on transgender and intersex rights.
5. Create op-eds, editorials, and commentaries for publication in newspapers and medical journals in Pakistan.
6. Promote the new discourse in medical institutions and among medical professionals.



## 6. Way Forward



In conclusion, the current situation of intersex persons in Pakistan is one of neglect, discrimination, and invisibility. While the Transgender Persons (Protection of Rights) Act of 2018 has made significant strides in ensuring civil rights and liberties for transgender and intersex persons, there is still a long way to go. The recommendations put forth in this report aim to address some of the systemic barriers and challenges faced by intersex persons in Pakistan.

It is essential that policymakers and stakeholders take a proactive approach to ensuring that intersex persons are not left behind in the pursuit of equity and justice. This will require political will, funding, and community engagement. However, the benefits of such an approach will be immense, both in terms of the social and economic impact it will have on society and the quality of life it will provide for intersex persons.

Given the tense political climate on the rights of gender and sexual minorities globally, the efforts of the gender-critical and conservative movement are only going to intensify in the future. It is imperative that we investigate how intersex and transgender communities relate with each other in each country and cultural context and how this relationship can be strengthened. This theme of “intersex, transgender, and queer relational politics” is a logical next step in exploring the lived realities, and the possibilities for a gender-just futurity for all intersex persons globally.

As we move forward, it is imperative that we continue to work towards creating a society that is inclusive, diverse, and equitable for all. We must recognise the inherent dignity and worth of every human being, regardless of their gender or sex. With sustained effort and collective action, we can create a future where intersex people are valued members of society, free to live their lives with dignity and respect.

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# Appendix

# Appendix A

## Meetings and Interviews

**Date:** 1st December 2022

**Time:** 2:00 PM (GMT+5)

**Duration of Discussion:** 60 minutes

### Discussion:

- Interviewee: Dr Sana Yasir, specialises in intersex and gender variant expressions, runs "LEAP for Intersex and Trans Health" platform
- Pakistani people are not ready to identify intersex people due to immense knowledge gaps in medical and clinical providers.
- Gender coding starts early in Pakistan with blue and pink birth certificates for boys and girls.
- Doctors value parental wishes over medical ethics, often complying with patriarchal desires to turn intersex babies into "full males."
- Intersex genital mutilation in childhood is common, leading to serious physical and psychological harm.
- The readiness of intersex and trans community for gender affirming procedures is dependent on the willingness and role of medical providers, which is often hindered by doctors' knowledge gaps.
- Congenital adrenal hyperplasia is the most common intersex variation among assigned female at birth children, often leading to clitorectomies.
- Androgen insensitivity syndrome is common among children assigned and raised as female but have XY chromosomes.
- Many families and children do not identify as intersex and consider it a derogatory term.
- Intersex variations are often referred to as "disorders of sexual development" by doctors, linking them with a disability-disease framework.
- Good religious scholars in Pakistan support gender affirming procedures for trans and intersex people, but they are few and far beyond
- Majority still prescribes to a rigid heteronormative reproductive mindset when it comes to sex and gender.

**Date:** 8th January 2023

**Time:** 4:00 PM (GMT+5)

**Duration of Discussion:** 40 minutes

### Discussion:

- S\* is an individual who was assigned male at birth and experienced gynecomastia and penis size issues during puberty.
- A female friend took him to a medical schoolteacher for treatment, but he received around 19-20 injections and doesn't know what they were or if they worked.
- S\* has a government job and hides his true gender expression to avoid discrimination.
- He knows two other intersex people but isn't sure if they're intersex or transgender.
- Protecting intersex people's bodily integrity is crucial, and intersex individuals often face discrimination in all areas of life.



- S\* emphasises the importance of data collection, including intersex individuals in emergency policy response, legal gender recognition and gender marker registration at birth, and addressing hate crimes and hate speech towards intersex individuals.

**Date:** 15th February 2023

**Time:** 3:00 PM (GMT+5)

**Duration of Discussion:** 40 minutes

**Discussion:**

- R is an intersex individual who was brought up as a girl.
- Before puberty, R could easily pass as a girl, but around the age of fourteen, he started experiencing changes in his appearance.
- Due to his condition, R could not pass his Matric exams and was pulled out of school by his family.
- R decided to transition into a male and had to go through a painful experience of changing his name on official documents.
- Even after transitioning, R faced harassment, both physical and sexual.
- R is optimistic and wants to continue his education, but he needs financial assistance to do so.
- R needs a stable job to go through a required surgery to reform his ambiguous genitalia and live the life he has always dreamed of.

**Date:** 15th February 2023

**Time:** 4:00 PM (GMT+5)

**Duration of Discussion:** 40 minutes

**Discussion:**

- A\* is a 27-year-old intersex individual who was assigned male at birth and identifies as a transwoman.
- During her treatment for Hodgkins Lymphoma, she found out that she is intersex and has congenital adrenal hyperplasia.
- A\* had a negative experience with her endocrinologist, who initially examined her without empathy and performed a genital exam without explaining why.
- Her family was also unsupportive, making derogatory comments about her gender identity and assaulting her brother.
- A\* completed her education through private tutoring and online university due to abuse and bullying from her family.
- She has taken female hormones for three months and wants a female gender ID card, although Pakistan currently only provides X to trans and intersex people.
- A\* has had negative experiences using male bathrooms and faced no action on her complaints.
- She is concerned about the transphobic amendment being made to the

Transgender Persons Act of 2018 in Pakistan, which requires a team of five people to determine a person's gender marker and feels threatened by the current political climate.

- Despite negative experiences, A\* is grateful for doctors who have respected her gender identity and guided her during her Hodgkins treatment.

**Date:** 3rd March 2023

**Time:** 2:30 PM (GMT+5)

**Duration of Discussion:** 40 minutes

**Discussion:**

- J is a 30-year-old intersex non-binary person who goes by the pronouns he/they.
- J always felt different and knew he was not a girl, especially when puberty hit, and his voice deepened.
- J struggled with dysphoria and became reclusive, but the conversation about his transness never happened with his mother.
- J socially transitioned and now lives as a male person, but his ID still carries his feminine dead name and gender marker of female.
- J recently saw an intersex health specialist and discovered he has no ovaries, uterus, and has XY chromosomes with high testosterone levels.
- J cut his hair, changed his outfits, and moved back to his hometown after feeling ostracised by friends and colleagues at university.
- J had a traumatic experience at university where he was tricked into a detailed gender and genital exam, including an ultrasound.
- J thinks that intersex people are unsafe due to the new amendments being made to the Transgender Act in Pakistan.
- J values the work of transgender leaders and believes that their fight has set a good benchmark that is helping young intersex people come forward

## Appendix B

**Table 1:** List of key informant interviews conducted for the Intersex Asia Pakistan Country Report - 2023

Date	Name	Designation	Institution	Topic of Discussion
1st December 2022	Dr. Sana Yasir	Clinical Specialist	LEAP for Intersex and Trans Health	Medical ethics and practice
8th January 2023	S*	Intersex person	N/A	Lived experiences
15th February 2023	R*	Intersex person	N/A	Lived experiences
15th February 2023	A*	Intersex person	N/A	Lived experiences
3rd March 2023	J*	Intersex Person	N/A	Lived experiences
17th March 2023	Barrister Saiff Ali Akbar	Advocate High Court	ASA Law Firm	Legal gender recognition after Khunsa Act

**Table 2:** Meta-theoretical themes that emerged from triangulated analysis of literature and interviews and the Specific Themes borne out of Intersex Asia's Intersex Statement for the Intersex Asia Pakistan Country Report - 2023

META-THEMES	SPECIFIC THEMES
Current political attempts at intersex “governance” are a proxy for reproductive bio-essentialism	Protecting Intersex People’s Bodily Integrity
	Protecting Intersex People from Discrimination in All Areas
	Health
	Education
The transgender versus intersex dichotomy is a rhetorical political instrument to delegitimise gender diversity	Hate crime and hate speech
	Gender marker registration at birth
	Legal gender recognition
The Islamisation of (anti) gender affirmative care is a biopolitical recoding of heteropatriarchy	Access to justice and redress
	Data collection: addressing research gaps
	Inclusion in Emergency Policy Response



Intersex Asia is an autonomous regional network of intersex-led organisations and individuals from Asian countries that work to support, educate and advocate for the rights and lives of intersex individuals and raise awareness on human rights violations and discrimination faced by intersex communities. It envisions a world where the beauty of intersex people is celebrated, and where intersex persons can love themselves and grow together as a community. It seeks to create a space for intersex people where they can come forward and act as a stakeholder of the global intersex rights movement



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