

Transgender Inclusion through PPP model in Social Sector: Inching towards Integration

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Abstract

In 2018, the Government of Pakistan passed its Transgender Persons (Protection of Rights) Act, in order to legalize the status of transgender community and provide protection to the transgender persons in all spheres of social life but what has happened since? This discussion paper attempts to deduce the problems, gaps and innovative strategies to include the mostly excluded sect of Pakistan's society. The paper works towards the focus by comparatively analysing the transgender policy evolvments in other countries and the historical aspect from Pakistan as well. Other work done on the topic of transgender mainly includes socio economic conditions, needs, problems and overall discussion from a sociological perspective. The comparative analysis will help identify benchmarks and best practices not only from regional experience, but from the global west as well; for a comprehensive understanding of how similarities can induce better practices for inclusion. The paper identifies

certain policy gaps and provides a modified version of a PPP model suitable for application in Punjab and takes a new public policy approach on the legalization and legislative potential when it comes to the policy inclusion of the transgender community.

Through in-depth interviews with participants in different sectors of the civil arena, the paper highlights certain points of commonality between the Global North and Pakistan when it comes to transgender inclusion and the problems associated with it. The public private partnership model defines a whole new range of possibilities of non-state and civil society actors to play a pivotal role in sensitizing the Pakistani society and providing a much more inclusive environment for the transgender community when it comes to social, political or economic areas of the society.

Keywords: Transgender, Inclusion, Public Private Partnership, Punjab-Pakistan

Research Context

"Hijra", a term that is commonly used in the south Asian countries in the context of a transgender group of people (Nanda, 1990). The term initially originated from Arabic but can be translated to 'eunuch' which refers to any abnormality when it comes to male genitals (Habib, 2013).

However, Stryker and Whittle (2006) define the term Transgender in the social aspect of its meaning:

"Transgender are those who permanently changed their social gender through the public presentation of self without recourse genital transformation." (Stryker S., 2006)

This definition encompasses a wide variety of interpretations of the "third gender" and talks about the different dimensions of being recognized as a transgender and not only about the biological peculiarity found in this gender. In Pakistan, this marginalized community has and is facing a lot of challenges when it comes to inclusion and social services.

It was not until 2018 that The Government of Pakistan passed its Transgender Persons (Protection of Rights) Act¹ (see Annexure 2) aiming to provide relief, security and rehabilitation of the transgender persons taking a more 'psychological' stance towards 'gender' rather than only the

1. PDF of the act can be accessed here https://na.gov.pk/uploads/documents/1526547582_234.pdf

biological one. (International Commission of Jurists, 2020) The act also prohibits discrimination,

harassment and gives transgender persons citizenry rights as per the constitution.

Research Objectives

This paper aims to recommend a PPP model specifically designed for the transgender community in Punjab, Pakistan by taking in experiences from the global north and from Pakistan as well.

The need came up with the increasing uncertainty of implementation of the act while trying to map out the role of state a non-state actors in dealing with this social challenge.

The general question that this paper addresses is:

What policy gaps exist in Pakistan's legislation regarding transgender persons and what best practices can be adopted from other countries in Pakistan?

To be more specific in its approach:

How can the PPP model be modified to fit the needs of the transgender community in Punjab?.

Literature Review

PPP, Networks and Collaboration

Public Private Partnerships have been used as developmental approach when it comes to administrative projects taken on by the state to stay in line with the changing economy and marketplace. (Tabasum, 2013) There are different types of PPP models present and most of the models taken up by Governments revolve around infrastructural projects.

PPP's represent coalitions between the public and private sectors which can bring a lot of innovation and benefit to the citizens and government when private sector takes up some responsibility from the public sector under contractual agreement. (Ghaus-Pasha, 2008)

Experiences: USA & Europe

In the US, the Human Rights Campaign and transgenders' experience with ENDA in 1994 showed a more infamous side of the LGBT movement. The bill did not include gender identity

in its proposal for non-discrimination among race, religion etc. This proved to be a great setback in transgender inclusive legislation and has yet to be properly exercised in the US. (Beemyn, 2014)

In study conducted over the span of 23 countries (ranging from Europe, North & South America to Russia and East Asia) on public perception and support for transgender rights, it was revealed that majority of the participants in all countries were in favour of transgender persons having access to changing their gender identification on official documents. Moreover, 70% agreed that transgender persons should be protected against discrimination by the government, the highest rate of opposition was seen in Russia (40.8%), see Figure 1. (Andrew R. Flores, 2016)

Experiences: South Asia

In India, the Transgender Persons (Protection of Rights) Bill² came into being in 2016 which detailed welfare services to the transgender persons

2. PDF of the act can be accessed here http://164.100.47.4/billstexts/lbills/lbills/asintroduced/210_2016_ls_eng.pdf

upon the recognition of identity through proof. This document was to be granted by the District Magistrate and outlined offences and punishments as well. The bill faced much criticism from the Trans activists in India due to its ambiguity in defining non-binary individuals and in certain criminal and personal laws as well. (Sawant, 2017) The Indian courts have recognised constitutional and human rights as described by many cases and is moving towards representation in the elections as well (Dipika Jain, 2013)

Jebin, 2018, in a study found that the status transgender persons in Bangladesh contradicted that described in the literature. Most transgender persons in Bangladesh live above poverty line, can freely express their political opinions but face social discrimination when going for healthcare services and believe that recognition of the 'third gender' in government documents is paramount to their advancement. (Jebin, 2018)

Research Design

This discussion paper has approached the topic through the qualitative lens of collecting and understanding data. For the comparative analysis secondary data has been accessed to understand the differences in legislation, social narratives and images between the Global North (socio-economically rich countries) and the Global South, particularly Pakistan. The paper uses journals articles, news articles, constitutions, legal documents, cases, books and websites to examine this. When it comes to the Public Private Partnership model and its development for the transgender community of Punjab, the paper has advanced to primary data use and collection. This was done by in-depth interviewing three categories of participants using an open questionnaire (Annexure1) through online instruments such as Zoom, Microsoft Teams, and Skype while simultaneously conducting face to face interviews with participants whenever possible.

12 participants were reached out with the invitation to interview, out of which 6 agreed and willingly shared their input for this discussion paper in the given timeframe. The participants included a plethora of experts, Trans activists, lawyers and policy analysts globally. The three categories formed as per participant involvement are as follows:

Group 1: Influencers and transgender activists from Pakistan (2)

Group 2: Activists and University Professors from USA, Europe (2)

Group 3: Lawyers and Policy analysts from Pakistan (2)

All participants were reached out through email which included the consent form and the participant information sheet. Upon reply and returning of signed consent form, the questionnaire was sent to the participants and a date/time was set for the interview. Online links were shared for the virtual interviews as well. The recordings (upon consent) for the interviews (virtual/face-to-face) were converted into mp4 files and then transcribed using the intelligent verbatim technique for easy annotation and understanding.

The analysis plan for this paper used a deductive analysis approach which focuses on collecting and rearranging data collected through interviews in the predetermined categories under the PPP model and comparative approach of the paper. Patterns were established upon the commonalities of the data collected to better categorize it to the needs of the paper and the basic research objective.

Key Findings

The in-depth interviews of the 6 participants revealed certain aspects of commonality among each other that have been categorized in the three categories discussed below.

Category I: Defining Transgender & Exclusion

This category included questions 1,2,3,8,9,12 (Annexure1) of the questionnaire which related to social pressures, exclusion faced by the transgender community in their daily life and the kind of picture they would like to paint for the transgender community. These questions were mainly directed to Group 1 and Group 2.

Ms Jannat Ali, a Trans activist in Pakistan and the leading figure among others in passing of the 2018 Act, defined transgender as

"Someone who defines themselves differently from their biological sex.....they are not satisfied with their assigned sex at birth when identifying through gender...."

While, Adam Messinger, a professor at North-eastern Illinois University and author, breaks down the definition of transgender into simpler parts of the complex whole by saying:

"Someone whose gender identity differs from their sex defined at birth gender identity would be how you think of yourself and is associated with cultural expectations and norms in how you behave and express yourself..... Sex assigned at birth refers to how physicians assign sex category or label based on physiological markers such as gentilia..."

Jannat Ali, as a transgender person herself, enumerated certain aspects of the Pakistani society that fuelled the exclusion such as 'dishonour', 'saving face', 'the notion of unholiness', 'parents and teachers discriminating' among several others. Prof. Messinger, highlighted how politically the LGBTQA+ movement had prioritized the LG part while paying considerably less attention to the

sensitization of the 'T' in US case.

Category II: Legislative Experience(s)

This category included questions 6,11,13,14 (Annexure1) of the questionnaire. These questions were directed to all groups. According to Ms Jannat Ali, legislation in Pakistan has been very verbose and potent on paper but when it comes to implementation in the socio-political and economic sphere, the gap increases. According to Participant 4, a law student specializing in human rights activism, stated that the Act is the first step towards the international concept of 'gender sovereignty' but is more aligned to the international movement of gender rights as compared to the historically rich background of the Khawaja Sira/ Hijra culture of Pakistan.

In context of US and Europe, Adam Messinger stated that the ENDA (Employment Non-discrimination Act) passed by the US does not particularly target trans genders and changing ideologies of the governments keep the pendulum swaying when it comes to legislation on all state levels.

Category III: Functionality of PPP Model Adaptation

This category included questions 4,5,7,10,15 (Annexure1) of the questionnaire. These questions were directed to Group 2 and Group 3. Participant 5, specializing in policy analysis and economics, stated that public private connections can help transgender persons become 'productive, useful and meaningful individuals' by filling gaps in education, health and social welfare policies. They further stated how the civil society can help create better opportunities by partnering with private entities through innovative funding, administrative and skill sharing strategies. According to Participant 6, links established in Figure 2 can be made stronger by creating a space for partnerships in the social and human services through cultural and interpersonal integration.

Discussion

When discussing the definition or the social narrative around the words "transgender", "Hijra" and 'intersex', a lot of confusion is created. The confounding of these terms leads to building of a social narrative upon semantics that lead people to believe that all these word mean the same thing. The use of 'Hijra' is primarily south Asian with its own history and norms. (Aurat Foundation, 2016) While variation biological as Adam Messinger said would not mean the same as gender identity. Thus clarifying what each term means would create much more clarity in legislation and also for people in understanding the culture and norms of the transgender community as a whole.

According to the population census report of 2017, around 6709 transgender persons live in Punjab which is 64% of Pakistan's total transgender population with more than 73% living in the urban centres. (Muhammad Basit, 2020) Thus the community needs to strengthen certain aspects that can help empower themselves but also feel safer in the society as well. As the Group 1 participants repeatedly outlined, the social evils of harassment, violence, abuse, rape and discrimination by the police officers and reverse victimization have led to resentment among the community as well. Here is where the public private partnership model comes in. There is a vacuum that occurs due to the internal determinants of the community where the trans participants felt leadership is needed. Moreover, the 'NGO culture' has led to distrust among the community as they feel the civil society organizations have been

gathering fund using their struggles to make their directors and employees richer. Amidst this the informal networks cannot be forgotten. As illustrated by the dotted arrows in Figure 3 of the modified model, the informal networks that connect the private and public sectors working towards transgender rights need also be looked over informally or formally by the State.

The participants in Group 1 and Group 3 believed that building better connections intra-community would provide improved leadership, increased employment, solidarity and sustainability when it comes to solutions to the problems of the community. Focusing on the private sector (for profit), changing societal attitudes through integration of transgender persons in the workplace would help further sensitize people to the community and move the PPP model towards a more public funding- private delivery model. As mentioned in Figure 3, the private funding-public delivery model can also help mobilized CSO's and the government in creating better service delivery especially when it comes to health and education. (Mitchell, 2000)

As our interviews revealed, Pakistan has comprehensive legislation regarding issues but the real problem exists in the role of government and the private sector working together collaboratively when it comes to providing social services. The justice system and the complexity of cultural norms lead to discrimination and non-provision of basic rights when it comes to the transgender community.

Policy Recommendations

The government of Pakistan has been readily working on a clearly objectified policy for the transgender community that is based on five key elements:

1. Resilience
2. Equity
3. Opportunity

4. Gender Equality
5. Social Inclusion

The policy is set by clearly defining the agencies involved, see Table 1. This performs a perfect example of public-private network where governmental, non-governmental different NGO's

are collaborating towards a combined goal. From the perspective of its political administrative programme, a clear representation of regulatory instruments is seen. Plus the substantive elements of the policy seem concrete, complete and ready for the next phase of implementation. There is a detailed explanation and division of labour along with role of power, the competency of that organization is kept in mind and an amalgam of different actors is used to benefit the end beneficiaries i.e. the transgender community.

This paper has identified the marginalization, criminalization and the stigma that revolves around the transgender community as many previous studies would have. So the recommendations shared here target the legal (state-legislative) actors, Civil Society actors, public and private actors as well as the transgender persons themselves as main interest groups in building a more meaningful community for the transgender persons to be involved and included in.

- In order to include social inclusion, laws/policies should be developed that explicitly provides gender/sexual minorities equal opportunities to exercise their rights. This may be done by providing a representation of a particular percentage in

government allocations.

- When it comes to legalization of the 'third gender', NADRA and the Transgender Persons (Protection of Rights) Act 2018 need to bring greater clarity to its definitions of the 'third gender' as discussed in this paper.
- Reintegrate the transgender community by creating awareness of their historical importance in the sub continental courts and justice systems. This can be done through awareness programs, plays, TV shows, and media campaigns so that activism can be encouraged.
- Political visibility and anti-discriminatory practices (laws) should be encouraged. This can be done by collecting data of transgender persons living in different districts, tehsils and municipalities along with their voting status would help more Transgender person like Ms Bindiya Rana can run in the elections with proper information.
- Improving overall access to healthcare and social services can be accomplished by private and public sectors collaborating using any service delivery model and creating cost-effective financing plans.

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Figures

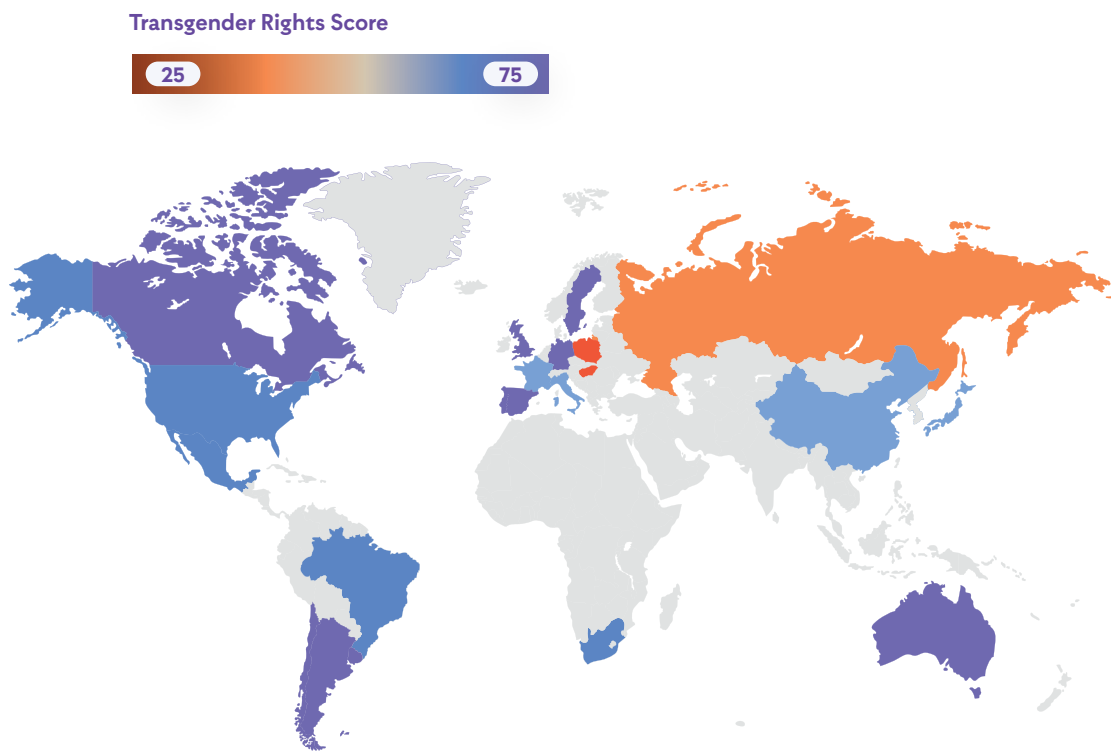


Figure 1: Country Ratings on Transgender Acceptance Scale (Andrew R. Flores, 2016)

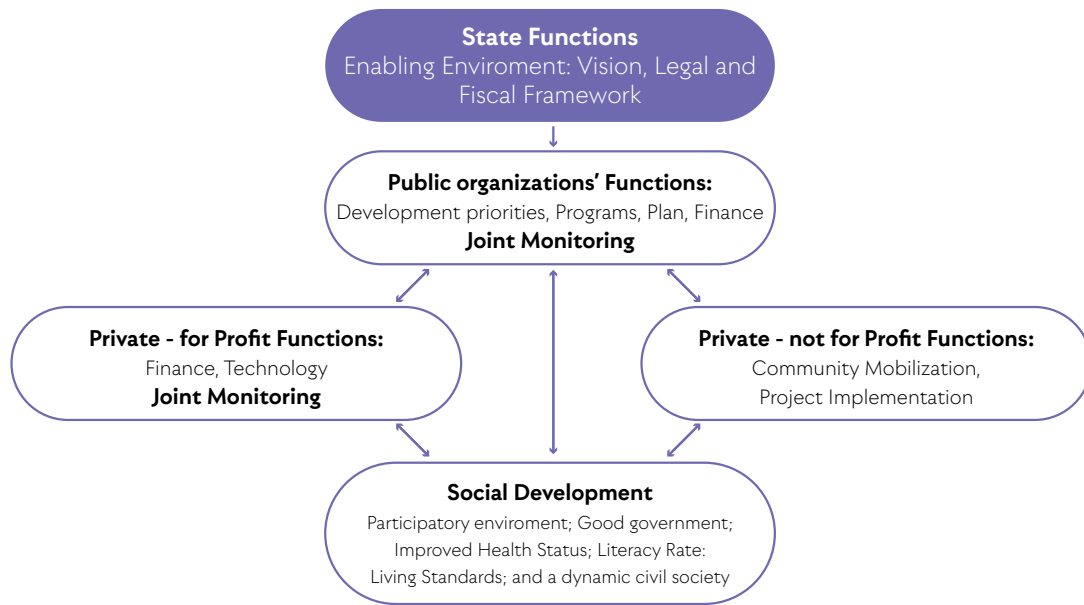


Figure 2: Original PPP Model (Mustaghis-Ur-Rahman, 2005)

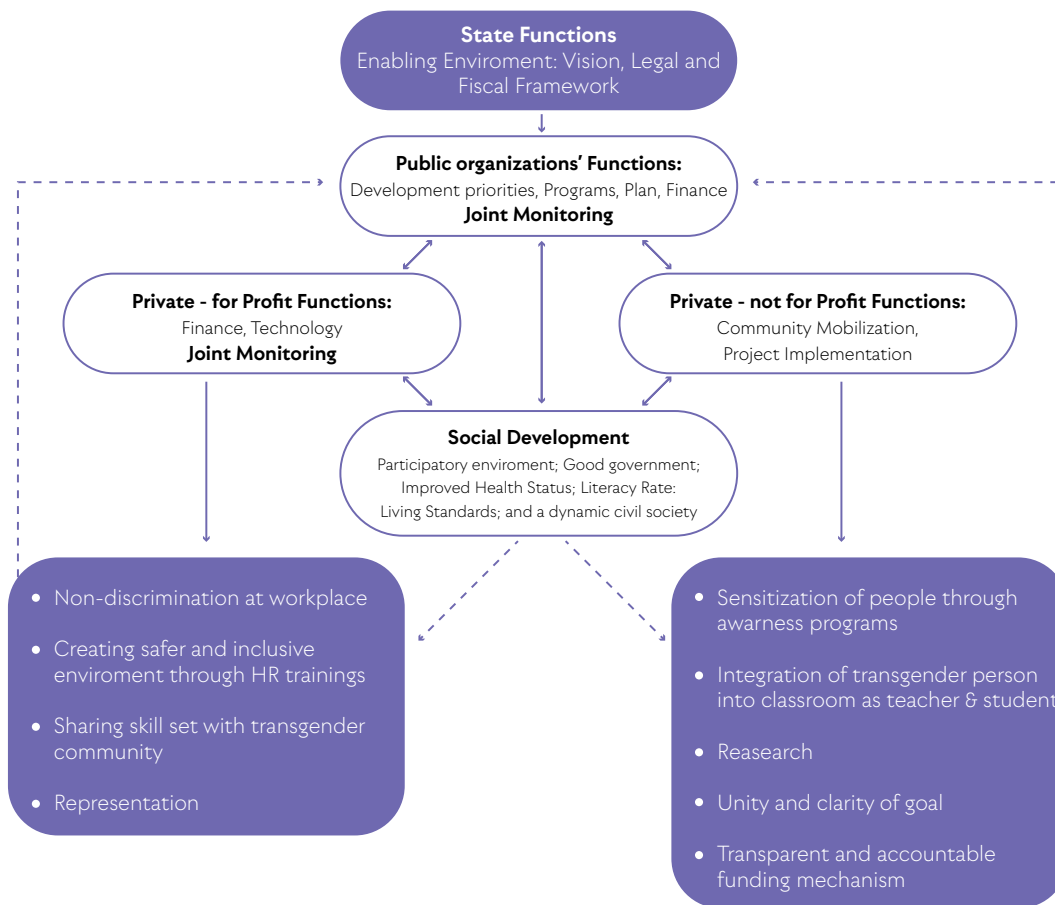


Figure 3: Modified Proposed Model

Table

Social Welfare Program Classification	Instruments	Prospective Agencies for Implementation
Social Provisions	Free and essential services such as CNIC Registration, Education, Health and home shelters and protection of rights	NADRA, Education Departments, PM Youth Program, Health Departments, Local Government Departments, BISP, Social Welfare Departments
Livelihood Support	Labour market interventions i.e. Skills, interest-free credit, internships and jobs	NAVTEC, PMYP, TEVTA, PVTC, PSIC, Labour Departments, Social Welfare Departments, Election Commission, BISP
Social Security	Contributory or non-contributory old-age pensions, Health-insurance, grants for workers by PESSI etc.	Labour Departments, EOBI, Finance Departments, PM National Health Program, Workers Welfare Board, Social Welfare Departments
Welfare Assistance	Cash transfers to Elderly, People with disabilities and other vulnerable TGs.	BISP, Akhuwat, PSPA, Zakat & Usher Departments, Social Welfare Departments, Transport Departments, Agriculture Departments, Housing Departments

Source: Transgender Welfare Policy-PSPA/Punjab Govt.

Table 1: Social Welfare Instruments and their Application to Transgender Persons

Annexures

Annexure 1

Interview Question Bank

Key: Group 1  Group 2  Group 3 

	Questions	
1.	What does transgender mean and what does it not mean?	 
2.	What are some other issues – beyond discrimination and threat to violence– do you feel are faced by the community?	 
3.	Can you paint a picture of the perfect world you would like to achieve for your community? What are some policy gaps that need to be filled for your vision to come alive?	
4.	How can the connections be made accessible for practical application?	
5.	What modifications would you recommend to the existing PPP model especially keeping the issues faced by the transgender community in Punjab?	
6.	What role do non state organizations play in empowering the transgender community? Do you think they play a much greater role than the state itself?	 
7.	Does connecting civil society with government authorities in sectors of health, education and employment create better opportunities for transgender community? Do these policy connections make sense?	
8.	What kind of problems and hurdles have you faced while working for transgender inclusion?	
9.	What societal pressures have you faced or not faced when it comes to your work?	
10.	Keeping in mind the policy gaps, what kind of PPP model would you prefer in creating better culture of equality?	
11.	What are some policy gaps that you perceive in the legislation of your country?	 
12.	How would you describe your country's experience with transgender inclusion in policy?	 
13.	Does Pakistan need an ENDA (employment non-discrimination act), a new piece of legislation to actually see some change?	 
14.	What kind of work needs to be done to encourage transgender inclusion in policy making and legislation?	 
15.	Are there any examples and/or best examples of a PPP model in the social sector?	

Annexure 2

The transgender person (protection of rights) Bill, 2017 seeks to:

- i. define a transgender person
- ii. prohibit discrimination against transgender persons;
- iii. confer right upon transgender persons to be recognized as such, and a right to self-perceived gender identity;
- iv. provide that no establishment shall discriminate against transgender person in matters relating to employment, recruitment, promotion, education and other related issues; and
- v. provide the welfare measures by the government for transgender persons.

