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The Role of Social and Islamic Jurisprudential Rulings on Eunuchs

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Abstract:

The concept of the gender binary is becoming irrelevant with time. Sex is allotted or assigned at the time of birth while gender is a self-assigned social role that prefers and aims to be recognized in society. On the touchstone of international human rights standards, the research work marks out the problems and hostilities faced by the eunuchs in Pakistan. Drawing closer to the research content, it seems a challenge to fight the colonial legacies where the subcontinent region is a hot place of eunuch discrimination and suppression to seek strength from various aspects of our society such as the everyday fight of the eunuch people in search of human and gender rights. The paper evaluates the occupational, personal and social status of this

inconsiderate and volatile faction of the society. It discusses the 2018 Act for this vulnerable group of Pakistani society, their place in Islamic jurisprudence, and their role in the chapter of history. The questions of morbidity and troubles faced by the transgender community, whether all these formulations and legit actions lead toward the safe life of eunuchs in Pakistan have been elaborated.¹ The potential answers to these questions, like social ostracism, are multiple, layered, and complex. The three different parts of this research work illustrate the developments in Pakistan and the Islamic jurisdiction towards the important faction of society known as eunuchs.

Keywords: Eunuch, Transgender Rights, Deprived soul, Society, Jurisprudence

1. Introduction:

Eunuchs are not males or females but belong to a third gender which is yet to be acknowledged and recognized by many societies in the world including Pakistani society. The eunuch is not a male because; they have an imperfect or missing male sex organ or have no sexual desire for the opposite sex is-e females or they carry a female name, walk and behave like females even if they prefer to dress like them. It is to be remembered that even though they don't look normal that in no case means they are suffering from any medical deformity or psychological illness, rather they are born with their somehow peculiar to society mind makeup or sexual orientations.

Similarly, the eunuch is not a female because they do not possess female reproductive organs or they cannot conceive a pregnancy. Therefore, they belong to the third category of sex which is called the third sex. But unfortunately, the legal system of Pakistan does not recognize the existence of the third gender and neither does the society. This renders them legally and socially invisible to the state. Generally, the unstable distribution of the chromosomes makes them have deformed genitalia. Humans having both the male and female sex parts are known as hermaphrodites and the third type is not aligned to their brain and they undergo a certain surgery to have the neural stability between the mind and the sex organs.

The systematic research of the topic goes around the fundamental rights of the Transgender community. The entities were called with names of 'Hire' 'Khawaja Sara' and 'Kura' in Pakistan and India. The lawsuit regarding this group is Article 25, the constitution of Pakistan. This undergoes as the pragmatic statement towards the social and legal rights of the Transgender community. The United States of America as the world leader and a loud voice against racial and

¹ Shehzad, F., & Inayat Ullah, K. The Plight Of Eunuchs In Pakistan. *Journal of Law and Society*, 2016, 31 to 38.

gender discrimination has gone through the amendment in their charter too. The change goes countries have gone through this social unrest but have gradually healed and rebuilt the environment for the safe life of eunuchs and their families. The amendment scrutinizes racial discrimination and hits down the perpetrator with state-level punishment if spotted in any such deed. There is a famous activist Christine Jorgenson² from America that faced brutality in her entire life and she uses the word stigma whenever there is dialogue over this issue. A series of systemic inequality follows which only compels these people to be sex workers, drug users, and highly involved in adultery. If the camera turned towards Pakistan, in 2016 a transgender Alisha³ succumbs to wounds at Peshawar hospital, just because she was not acknowledged as male or a female before setting her to first aid. There have been movements, rallies, and many things on media too. The Transgender Person's Bill⁴ of 2017 allowed driving, safe houses; financial loans to smart businesses were discussed but have never seen being practiced since 2017. Moving ahead and overseeing the issue of newsreader Marvia Malik and her experiences are strengths to all people of this community. Julie a victim and an activist tell the everyday life story of eunuchs on streets, ill governance, and laws for them, generally ignorant and rude behavior of the people.⁵

2. Research Questions:

1. What do eunuchs feel living an invisible role?
2. How society and Islamic jurisprudence in Pakistan are serving eunuchs?
3. Do the symbolic and semiotic gender categories present any threat to the male dominant society of Pakistan?

3. Research Methodology:

The research paper undergoes the queer theory that is not a subject of gender studies only. Queer theory is and has been a negative connotation as it included all the people who are not under the gender umbrella of the society. The notion that the queer theory takes out aspects to be micro scoped and brought to the light. Further, the queer theory incorporates the social identities and the conflicts between the determinants. The queer theory takes the in-depth plight of this neglected faction of society. There is minute literature and philosophical roots in the domain of

² News, N. Y. (1952, 12 1). Wikipedia. Retrieved from en.m.wikipedia.org: https://en.wikipedia.org/wiki/Christine_Jorgensen

³ Akbar, A. (2016, 5 25). DAWN NEWS. Retrieved from dawn.com: <https://www.dawn.com/news/1260559>

⁴ Bains, R. d., & Geneva. Transgender Persons Act, 2018. International Commission of Jurists, 2020, 36.

⁵ Originals, T. C. Social media sensation. Islamabad, 2020.

the eunuchs. Therefore, the government lags any progress. All the educational, economic, and hierarchal patterns of the eunuchs were added and every single encounter is a story of brutality, hate, and disappointment. This research primarily is the account, surveys, and individual reports of the eunuch people. It includes the digital media referencing of the transgender in Pakistan.

4. Research Gap:

The objective of the research is to capture the room in this domain. The socio-economic growth of the eunuch people is limited; so, it is intended to find out the literacy and education status of the population, their living conditions, and the jurisprudence in Pakistani society.

The queer topic under subjection is not only a topic of gender or transgender studies. It digs out the human nature of the minor factions, entities, and groups prevailing in society. Mainly it involves the faces from different circles of the society under subjugation and hate. The previously discussed aspects are rejuvenation to the dead and unheard eunuchs. Pakistan being an Islamic country, all the aspects discussed are now to be implanted and this work would prove to be a new brainstorm for all masses to consider and safeguard the minute and abandoned section of the society.

5. Data Analysis:

Humans have two types of species, Male and female. Another existing one is neither a complete man nor a woman, therefore called with many names such as *Khawaja sera*, *hussar*, *Mohandas*, and *la, oy* which are painful for those humans. This human species faces identity breaches and crises throughout their life.

These biologically unstable people are a part of society that run all their lives for them to be respected, to be at the workplace, and to be given due share in all walks of life, A truth that can open an eye in any family. As a quotation makes this issue more vibrant and acceptable.

“Nature chooses who will be transgender individuals do not choose this”.⁶

The transsexual people known to be ladyboys are just like all other humans that are supposed to lean on, push work hard, and make living out of it. Things that are common for us are not accessible to these people, when they are unable to survive, they then become sex workers, dancers. The reason behind it is the inhumane and obsessive treatment of them at another normal workplace.⁷

⁶ Vallum, J. (2018, 1 17). BBC. Retrieved from [bbc.co.uk: https://www.bbc.co.uk/bbcthree/article/4fd80635-a8fc-4208-9003-149a2ab26650](https://www.bbc.co.uk/bbcthree/article/4fd80635-a8fc-4208-9003-149a2ab26650)

⁷ Originals, T. C. The media business explained, 2020.

These people are part of human society, what takes them out and to the evil world is social injustice. The story does not end here; it goes on to their death beds. On the other hand, Islamic teachings hold no difference to the people and are to be equally brought up just like other kids and members of the society.

Have you ever heard of Shia/Sunni transgender?⁸

“They ask us to know Islam ask why these teachers of Islam are divided, divided into Sunni and Shia. The concept of rich and poor is present everywhere. The rich Sunni, the poor Sunni, the rich Shia, and the poor Shia. They say we are free from the “Gora Rule”, but still the rich is capturing the poor. The rich want the poor to serve him. Where is freedom and respect for each other?

Poor get poorer only because they are fed to divide and kill each other, rich sit and do meetings and table talks. They fear not let the lower class know and get ahead.”⁹

Julie’s take on the problem that hep roots in Pakistani society. Her retrospection is an eye-opener for many who believe that the sectarian divide is a religious matter.

A Hadith brings one to shock where they are said to the tired and exhausted faces that are not turned empty if they swear in any matter to God.

A survey brings 33 % of the eunuchs to be beggars while others are getting livelihood from fair or unfair means. They live together in the form of groups calling their leader’s home a ‘DERA’. Guru is just like a father and a loving guardian who assigns the duties to all the subordinates and loves them as real parents, that is the need of time or teamwork but they are entangled and they care for each other. They are aware of each other’s timings and the exact location of the work. After the death of the guru they knew takes charge and all of the younger ones follow the rules of that home and spread affinity and good vibes for each other. The reason for this is that there is no second place of love and comfort for them except that ‘DERA’

In historical times especially the Mughal era, eunuchs were experts of horse riding, targetting and were kept in the personal HERAMS or the rooms of the leaders. The aim wastes protect the wives of kings and princesses and they were entitled to “Khawaja Sira”. As time passed they gradually adapted the female attributes, sitting and dressing sense, and were then appearing as females of the society. Generally, the eunuchs are classified as males and females

⁸ Originals, Social media sensation, 2020.

⁹ Originals, T. C. Street Singers of Pakistan, 2021.

depending on their urinary patterns. If they urinate with a male organ, then it's called a male and if it's with a female then they are classified as female eunuchs. Islamic jurisprudence warns and prohibits all those who are not the eunuchs genetically but they do so for personal objectives and pursuits.

Basics of this domain are that if a person amongst this community has grown a beard and reaches a woman then he is considered as a male while the one who held pregnantly or is having bulging chest then it ought to be a woman.

A eunuch will opt to stand out in a different line while praying and bend and sit like a woman, if the habits and movements of the body do not become clear till they reach adulthood, he then is not allowed to pray following an Imam. Islamic jurisprudence goes straight in every aspect, if they are distinct in their gender to be eunuchs, male or female then they will be given the due right of heir or property. The sexual attachment and inclination are depicted through Hadith:

Narrated Ume Salma: The Prophet came to me while an effeminate man was sitting with me, and I heard him (i.e. the effeminate man) saying to 'Abdullah bin Abi Umaiyah, "O 'Abdullah! See if Allah should make you conquer Ta'if tomorrow, then take the daughter of Ghailani (in marriage) as (she is so beautiful and fat that) she shows four folds of flesh when facing you, and eight when she turns her back." The Prophet then said, "These (effeminate men) should never enter upon you (O women!)." Ibn Juraij said, "That effeminate man was called Hit."¹⁰

Moreover, the evidence of that person is accepted who are not fancy in their talk and simply and are not connected with any misdeeds or adultery. Similarly, those who follow the taboos in society and divorce their wives on the birth of girls. If a baby born is eunuch or of a third gender, a man cannot divorce his woman unless there is clarity in the gender of the newborn.

Streamlining every part of this community, life after the death of eunuchs is the same as all other humans, getting what they did in their life, a person a eunuch is a homosexual and is into such practice will not be discussed accepted. Funeral details are also included in the religion and amongst all funerals; eunuchs are too buried before women but after men and kids. Suicidal attempts are common among these special human beings, researchers say that they are far from religion and get disappointed most of the time.

¹⁰ Bukhari, S. (n.d.). Military Expeditions led by the Prophet(pbuh).

“Do not murder yourself and your God is kind indeed.”¹¹

A very reliable and authentic survey taken out comprises of 50 people, out these 22 people have the emotions of revenge and harm towards the society and they say that it's because of neglected human behavior towards them. An individual at the time he is born holds no right to choose their gender than the taboos and actions of society odds them out as they grow. Eventually, they end up losing their homes and are aliens to the normal human world. No access to civic life and education makes them brutal and spy on the whole world.

On record encounter is of the famous news anchor which reveals the story of her life, she claims this world to be a ‘No Home ‘for them. She made herself bald and was totally at home for weeks. A vibe of trauma and mental illness made her think this way.¹²

She belongs to a well-off family; her father is settled in London for twenty-five years. She was lucky to have basic education when she left her home. Earlier age had her troubles, she was not adequately held and maltreatment in the family and society led her away after her intermediate studies. What was there for siblings, she stood alone and desperate in her childhood. She is currently the President of the KSS Khawaja Sara Society.¹³ She has been a model too, just after her shoot was out people called her second Qandeel Baloch (a girl murdered a few years back). She exclaimed hard and broke into tears on a live T.V show, assuming all her life to be hard in the past and havoc for the future too.

The deprivation and hard-line stories are evident and recorded all around the world. “Over a decade ago I realized I had to change my life if I wanted to achieve great things. I had to stop blaming others for my fate and take charge of my destiny surrounded. I with all positive and spiritual people around me and released all negative forces in my life. To progress, we must release all negativity and focus on positive in our Lives. Transgender brothers and sisters do not lose sight of your goals, hopes, and dreams Regardless of how bad they seem.”¹⁴

A proportion of 64% is considered the societal agony and hate for these people and 36% is the family setting that denies and refuses to keep the third sex human with them.

“Those who trouble the faithful of men and women are having evil and curse upon them.”¹⁵

¹¹ Shakir, M. H. (n.d.). Surat An Nisa(The Women). In God, Quran.

¹² Tribe, C. News Anchor Marvia Malik, 2020.

¹³ KKS. (2021). Spotlight. Retrieved from apcom.org: <https://www.apcom.org/spotlight-khawaja-sira-society-pakistan>

¹⁴ Newman, T. (2021). Toni D Newman. Retrieved from tonidnewman.com: <https://tonidnewman.com>

¹⁵ Imam, A. R. (n.d.). Irshadaat-e-Imam Ahmad Raza.

Not so far is the living example of transgender from Karachi Rifle Khan,¹⁶ highly distinctive in her education career with two master degree certificates in Economic and Political science is still filling out the loopholes in her own family. She says my siblings are professors but the struggle is an everyday story for her and a lot following her. In 2014 she was transferred to run Karachi Trans Community but soon she was on street in search of funds, now she is a social activist.

A person would have his hearing affected when ‘Khawaja Sara’ and eunuch people are not allowed to visit the public washrooms and are somehow considered beasts. South of the Punjab province has the least literacy rate of this community. It is the sensitive issue of identity that is havoc for these Metahumans when most of the eunuchs are found reluctant to keep their Guru’s name in the parentage column of NADRA. There lies no data of their population and people are ignorant, as per the record of the Bureau of Statistics, there are almost 350000 Eunuchs spread in the whole country. The number always went doubted as they always face hostile and derogatory situations. The census of 2016-17 has made a mile to count the actual numerical figure of this human. Since they are forced to live far off in slums, there is a tendency for HIV aids, and other viral attacks. When heading towards the hospital they are maltreated and this point negates their access to the basic health facilities. Pakistani media never portrayed the transgender community as part¹⁷ of culture and society, fun, amusement, and perverted approach have always been there among the developing minds of society.

Electoral and Political proceedings of the eunuchs are highly a matter of conspiracy, just after the approval of the bill in 2011 five of the transgender people took part in the elections. Societal patriarch and envy for these people disappointed them and all of them badly failed. In the recent 2018 deadly elections of Pakistan, Almost five members from PTI Pakistan and two independent ran for the cabinet seats. Among them, three were threatened badly and the failure hit the eunuchs again. She-Mal Association of Multan, Kadeem Kashish¹⁸ played an active role for the Transgender community, recently in the past years, it asked for minority rights seats of the Transgender people just like all other minorities airing their voice nationwide through the provincial and national assembly of Pakistan. Peshawar, a Parkton majority and a tribal area badly wounded the two future candidates of the eunuch family, after knowing they are the

¹⁶ Khan, R. (2017, May 31). DAWN. Retrieved from dawn.com: <https://www.dawn.com>

¹⁷ GIA. (n.d.). Gender Interactive Alliance Pakistan. Retrieved from tivealliance.wordpress.com: <https://genderinteractivealliance.wordpress.com>

¹⁸ Monkey, S. (1999). Survey Monkey. Retrieved from surveymonkey.com: <https://www.surveymonkey.com/r/XTGF9HB>

eunuchs just because they filed papers for the constituency. Amid these pathetic and brutal incidents, a sight of misery is evident for these alone and poor souls. Government has papers but in action, they are just beating about the bush.

A transparent survey depicted 54%¹⁹ of those eunuchs that have the same mind. They say no new government would bring their life back and do well for their living in Pakistani society. In the interview, eunuchs stated that while their families may embrace them, society's behavior forces their parents to abandon them.²⁰

6. Conclusion:

Eunuchs and all humans are alike, just naming and making the odd ones out deprived these people of necessities of life including bread and butter. The dignity of man is talked about but what about the dignity of these aloof figures. They are considered the source of nudity, adultery, and other crimes in society. Although no jobs and space in the environment pushes them to the corner and be part of unethical deeds just to win bread for themselves and their groups. The third gender the not the generation of any computer or the software infect they are to be seen and absorbed like normal kids. A disabled person attains all the sympathies in Pakistan then why not the Hijras and eunuchs. Derogating self-esteem makes life hard for them, calling names and hating them brings turmoil to their souls and minds. We forgot what Allah said: Allah says in the Holy Quran: O mankind, We created you from one man and one woman and then divided you into nations and tribes so that you may recognize one another. Indeed, the most honorable amongst you in the sight of Allah is he who is most pious (God-Fearing) of you. Surely Allah is All-Knowing, All-Wise.”

This verse depicts that we are made into genders, castes, and clans for recognition. Another meaning drawn here is that biological differences may not cause suffering and deprivation to a naturally born human. Here it ends the illusion of hating eunuchs that had no control over their fate. Further extract of a verse brings light to the connection to the adultery presumed to be eunuch propagation. The pretenders are also on alarm as Prophet PBUH said: The Prophet, peace be upon him, cursed the effeminate men [m.pl.] who are males, and the male-pretenders [f.pl.] who are women, and he said: Evict them from your houses, and the Prophet, peace be upon him, evicted such-and-such [m.sg.] and 'Umar evicted such-and-such [f.sg.].

¹⁹ Khan, M., Ali, Y., & Pickthall. (n.d.). Quran Wiki Surah Hujrat. Retrieved from quran-wiki.com: <https://www.quran-wiki.com>ayat-49verse13>

²⁰ Nandi, G. Transgender Life. (Umm-e-Habiba, Interviewer), 2021, June 15.

لَعَنَ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ الْمُخْتَثِينَ مِنَ الرِّجَالِ وَالْمُنْتَرِجِلَاتِ مِنَ النِّسَاءِ وَقَالَ: أَخْرِجُوهُمْ مِنْ بُيُوتِكُمْ، قَالَ: فَأَخْرَجَ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فُلَانًا، وَأَخْرَجَ عُمَرُ فُلَانَةً.²¹

A Hadith in which the Prophet's companions asked whether they were allowed to use men (presumable prisoners of war) as eunuchs to fulfill their sexual urges since they were far from their wives.

Narrated ibn Mas'ud: We used to fight alongside the Prophet, peace be upon him. There were no women with us, so we said²²: "O Messenger of God, may we not treat some as eunuchs [أَلَا نَسْتَخْصِي]?" He forbade us to do so.

Saying of holy prophet answered is no, if today these people work as a sex worker of spread nudity in any society, the legitimacy, executive, and norms are to be scrutinized and reviewed on yearly basis. A man is not a crime if he has ways to live and earn.

7. Religious Commendations:

1. Common public and their responses to be tamed. Religious circles ought to put light on this most sensitive issue, rectifying the hatred and Patriarchal approaches in the air. Ulama may add this issue to their speeches and congregations. State and religion must pave the way together for eunuchs and Transgender.
2. Livelihood programs must take out shade for this sun burntrship community. Small-scale repreneu can ease out the burden and make these people a part of the working class of Pakistan. These channels would make them earn money through fair and legit means. Instead of dancing and prostitution, they would lean on Halal ways of earning and get busier with time.
3. Islamic law has taken into consideration of heirs and allotments. A disabled person gets his or her due share in their ancestral division, eunuchs don't. Islamic teachings and the role of Ulema can change the picture.

²¹ Bukhari, S. Dress Book LXXII. Mikail al-Almany, 2009.

²² al-Bukhari, S. (n.d.). Book LXII Marriage.

8. Law Commendations:

1. A job section and a reserved quota for jobs of Eunuch people.
2. Transgender Persons (Protection of Rights) 2018 must be applied. It must not be kept to offices, papers, and discussions. Therefore, eunuchs can face their plight turn in positivity.
3. The Theatre, Mujra, and other immoral activities of the eunuchs must be strictly banned.
4. Many men are seen masquerading; they are useless and sluggish human beings and have become eunuchs to beg and to produce income. All such men should be spied out and given hard punishments if they do not stop.
5. Hijras once known after their birth are handed over to ‘Gurus’ for their onward brought as they find it hard to rear him as their kid. A legal system is to be devised making parents bound to keep their special kids with them.
6. Definition of eunuchs, their aspirations, living, voting, education, and brought up is contradictory in many of the government papers. Islamic Ideology council takes lead in this matter and formulates the amendments in those charters and papers.

9. Social and Cultural Commendations:

1. Seminars are to be conducted for the general masses, to understand absorb, and to make sure that they want to be pragmatic in this matter. To engage with eunuchs in Pakistani society and not limit their life to darkness.
2. Educational grooming can outdo the potential of the eunuch people. It’s a social and religious norm for us to acknowledge and contribute to their wellbeing, bringing positivity to the environment and society.
3. Eunuch and transgender people must be in the light of expression; elastic figures can be turned into outstanding gymnasts and other sports.
4. People are supposed to discuss the Islamic injunctions and practices to the light, in that development conferences, e-books, and social media can be an extra goal.
5. Last but not the least, eunuchs themselves have to strive and hold meetings and conferences for themselves.

Civil society organizations, human rights activists, social mobilizers must also play their due role in taking up the issue of sexual minorities and the violation of their basic human and legal rights since this issue is admittedly of grave significance. They should make this a part of their

mandate. A detailed sex-based education shall be included in the school curriculum that challenges the already existing heterosexual bias and let the student develop a neutral and independent opinion and understanding which fosters a liberal outlook of the matter about gender orientation and its consequences.



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