



## **Pakistan - Researched and compiled by the Refugee Documentation Centre of Ireland on Wednesday 4 July 2012**

### **What is the legal status of homosexuality in Pakistan? What penalties apply if it is illegal? How are homosexuals treated by government and by society?**

A publication by *LGBT Asylum News* notes in February 2011:

“A Pakistani gay man has won UK asylum. Mohammed Asif had to hide his real identity in his country and had been verbally and physically abused by people around him. A cleric in his city found out about his identity which led Mohammed to run away from Pakistan. Although some tolerance exists in certain big cities, homosexuality in Pakistan is considered a sin and a taboo/vice and gay rights are close to non-existent. Homosexuality has been illegal in Pakistan since 1860, law punishes 'acts of sodomy' with a possible prison sentence. Pakistani law is a combination of the colonial and Islamic view. When the Islamic laws were introduced to the system amendments included primitive forms of punishments like whipping of up to 100 lashes and death by stoning. According to the Islamic law, repetition of the offence of homosexuality is punished by death. Although laws themselves are rarely enforced directly, they can be used by the police and private citizens as a form of blackmail. State protection is not possible and the government has always shown resistance against the issue of gay rights and never hid its intolerance” (*LGBT Asylum News* (8 February 2011) *In UK, Pakistani gay man wins asylum*).

*BBC News* states in July 2011:

“There is nothing explicit about homosexuals in Pakistan's constitution. But it is considered to be illegal and under Sharia laws in Pakistan, which were introduced in 1990, homosexual acts can draw punishments of whipping, imprisonment or even death” (*BBC News* (4 July 2011) *Pakistan: Religious groups condemn US embassy gay event*).

Research compiled by the *Immigration and Refugee Board of Canada* and issued in November 2011 states:

“...a representative of the Women Employees Welfare Association (WEWA)...said that “[s]exual minorities are not socially accepted” in Pakistan, with the major part of society denying their “existence”...” (*Immigration and Refugee Board of Canada* (30 November 2011) *Pakistan: Treatment of sexual minorities by society, government and religious authorities; recourse and protection available (2009-2011)*)

This report also cites the following:

“The representative of the Neengar Society noted that, if a person's ‘non-heterosexual’ orientation is revealed, life can become ‘miserable,’ as he or she can become a victim of ‘teasing, bashing, ... beating or threat[s]’...” (Ibid).

This report also states that:

“According to the United States...Country Reports on Human Rights Practices for 2010, although homosexual intercourse is considered a crime, ‘... in practice, the government rarely prosecuted cases’...However, according to the Neengar Society, in 2011, the organization is aware of 10 cases in the Punjab city of Multan that fell under Article 377 on ‘unnatural offenses’...In follow-up correspondence, the Neengar society representative noted that all 10 cases were prosecuted, with 2 resulting in a 10-year prison sentence...” (ibid).

It is also noted in this report that:

“According to the WEWA representative, ‘discrimination’ by the state of Pakistan against sexual minorities is ‘encoded, institutionalized and enforced’...This is done through ‘discriminatory legal provisions that criminalize homosexuality’ and ‘lack of expressed constitutional provisions on non-discrimination on the basis of sexual orientation’ (ibid.).

This publication also cites the following:

“The representative of the Neengar Society stated that sexual minorities do not have the option of legal recourse against discrimination, abuse or violence...According to WEWA, sexual minorities have ‘limited options’ when it comes to finding recourse to discrimination, abuse or violence, as they are not legally recognized...” (ibid).

A report published by *Freedom House* in November 2011 states:

“In recent years small efforts have also been made to recognize the rights of sexual minorities. For example, a 2009 Supreme Court decision recognized the basic human rights of transgender citizens known as hijras. In a more general sense, however, sexual minorities suffer from serious and often violent forms of discrimination, not only informally, but also formally through colonial-era laws that criminalize consensual adult homosexual activity” (Freedom House (4 November 2011) *Countries at the Crossroads 2011: Pakistan*, p.7).

An article in the *Daily Times* from February 2012 states:

“A group of clerics has launched a campaign against physical relationship between people of the same sex (homosexuality), demanding an end to activities of GLIFAA and GLSEN – US-based organisations working for the rights of gays and lesbians – in Lahore, Karachi and Islamabad” (Daily Times (13 February 2012) *Homosexuals in the line of fire*).

Research compiled by *Accord* in May 2012 states:

“...sources indicate that homosexual acts are ‘considered illegal’...or constitute ‘a criminal offense’...The 2010 edition of the *Spartacus*

International Gay Guide, a guidebook for male homosexual travellers, states with regard to the legal framework pertaining to homosexual activity and the situation of LGBT persons in Pakistan: 'Homosexual activity is illegal, punishable according to Islamic Laws which were re-introduced in 1990 and according to paragraph 377 with life in prison, corporal punishment of 100 lashes or even death by stoning. Despite the strict laws of Islam regarding moral standards, gay men, transvestites and transsexuals live relatively undisturbed from the police. On the other hand they cannot expect much protection from the authorities.' (Spartacus, 2010, p. 670)" (Accord (7 May 2012) *Pakistan-administered Kashmir (Azad Kashmir and Gilgit-Baltistan): COI Compilation*, p.98).

In May 2012 the *International Lesbian, Gay, Bisexual, Trans and Intersex Association* cites the Penal Code in Pakistan, noting:

"Section 377 'Unnatural offences' "Whoever voluntarily has carnal intercourse against the order of nature with any man, woman or animal, shall be punished with imprisonment for life, or with imprisonment of either description for a term which shall not be less than two years nor more than ten years, and shall also be liable to a fine." " (International Lesbian, Gay, Bisexual, Trans and Intersex Association (30 May 2012) *State-sponsored Homophobia 2012: Pakistan*).

Commenting on events of 2011, a report issued in May 2012 by the *United States Department of State* points out that:

"Consensual same-sex sexual conduct is a criminal offense; in practice, the government rarely prosecuted cases. Gay men and lesbians rarely revealed their sexual orientation. No laws protect against discrimination on the basis of sexual orientation or gender identity. Systematic discrimination against lesbian, gay, bisexual, and transgender persons was widely acknowledged privately, but insufficient data existed for accurate reporting on these forms of discrimination" (United States Department of State (24 May 2012) *Country Reports on Human Rights Practices for 2011*, Section 6. Discrimination, Societal Abuses, and Trafficking in Persons/Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity).

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This response was prepared after researching publicly accessible information currently available to the Refugee Documentation Centre within time constraints. This response is not and does not purport to be conclusive as to the merit of any particular claim to refugee status or asylum. Please read in full all documents referred to.

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