

Flygtningenævnets baggrundsmateriale

Bilagsnr.:	275
Land:	Pakistan
Kilde:	Immigration and Refugee Board of Canada
Titel:	Pakistan: Situation of sexual minorities in Islamabad, Karachi and Lahore, including treatment by society and authorities; state protection (2010-2013)
Udgivet:	13. januar 2014
Optaget på baggrundsmaterialet:	12. september 2014

[EN](#) | [DE](#)

- **Source:**
IRB - Immigration and Refugee Board of Canada
- **Title:**
Pakistan: Situation of sexual minorities in Islamabad, Karachi and Lahore, including treatment by society and authorities; state protection (2010-2013) [PAK104712.E]
- **Publication date:**
13 January 2014
- **ecoi.net summary:** Query response on situation of sexual minorities (legislation; discrimination; violence; treatment by police; support services) [ID 268527]
- **Countries:**
Pakistan
- **Original link** <http://www.irb.gc.ca/Eng/ResRec/RirRdi/Pages/index.aspx?doc=455051&pls=1>

Recommended citation:

IRB - Immigration and Refugee Board of Canada: Pakistan: Situation of sexual minorities in Islamabad, Karachi and Lahore, including treatment by society and authorities; state protection (2010-2013) [PAK104712.E], 13 January 2014 (available at [ecoi.net](http://www.ecoi.net))
http://www.ecoi.net/local_link/268527/383095_en.html (accessed 08 May 2014)



Immigration and
Refugee Board of Canada

Commission de l'immigration
et du statut de réfugié du Canada

Pakistan: Situation of sexual minorities in Islamabad, Karachi and Lahore, including treatment by society and authorities; state protection (2010-2013) [PAK104712.E]

Research Directorate, Immigration and Refugee Board of Canada, Ottawa

1. Legislation and Enforcement

Sources indicate that same-sex sexual acts between men are illegal in Pakistan (IGLHRC 17 Dec. 2013; ILGA May 2013, 71; Neengar Society 20 Dec. 2013). It is reportedly addressed in Section 377 of the Pakistan Penal Code (IGLHRC 17 Dec. 2013; ILGA May 2013, 71; IPS 27 Sept. 2013). Section 377 on "Unnatural Offences" states:

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 fine.

Explanation: Penetration is sufficient to constitute the carnal intercourse necessary to the offence described in this section. (Pakistan 2006, Sec. 377)

In correspondence with the Research Directorate, the Pakistan country advisor for the International Gay and Lesbian Human Rights Commission (IGLHRC) explained that the terminology "against the order of nature" refers to male homosexuality (IGLHRC 17 Dec. 2013). While some sources say that same-sex sexual acts are illegal, in general (US 19 Apr. 2013, 53; BBC 26 Aug. 2013; *The Independent* 27 May 2013), other sources say that same-sex activity between women is not illegal (ILGA May 2013, 71; Neengar Society 20 Dec. 2013). In correspondence with the Research Directorate, the President of Neengar Society, a youth-led NGO in Pakistan promoting rights for sexual and religious minorities (4 Dec. 2011), explained that since Section 377 cites "carnal intercourse," it is not applicable to lesbian couples (Neengar Society 20 Dec. 2013). The country advisor for IGLHRC similarly stated that the law does not apply to same-sex sexual acts between women, which he said is "still a very unexplored territory" in Pakistani law (IGLHRC 17 Dec. 2013).

Several sources indicate that the law is rarely enforced in practice (IGLHRC 17 Dec. 2013; US 19 Apr. 2013, 53; BBC 26 Aug. 2013). The President of Neengar Society was aware of one case of the law's enforcement since 2012, in which two young men, aged 20 and 19, were arrested in Punjab and were being prosecuted under Section 377 (20 Dec. 2013). The President indicated that "on a follow up in 2013, Neengar Society was informed that the boys were out on bail and the case was later dismissed on the grounds that there were no strong witnesses available" (Neengar Society 20 Dec. 2013). Further information about this case could not be found among the sources consulted by the Research Directorate.

The President of Neengar Society noted that Section 294 of the Pakistan Penal Code is sometimes applied to transgender people or male sex workers (20 Dec. 2013). The section on "Obscene Acts and Songs" states:

Whoever to the annoyance of others---a) does any obscene act in any public place, or b) sings, recites or utters any obscene songs, ballad or words, in or near any public place, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both. (Pakistan 2006, Sec. 294)

The Neengar Society President noted that:

these laws [Sec. 294 and Sec. 377] are rarely enforced, instead these laws are used to threaten and blackmail people. Since social stigma and discrimination against LGBT community is more severe in Pakistan, police and other community members threaten the members of LGBT community that they will have them arrested and thrown in jail. (20 Dec. 2013)

The President of Neengar Society stated that LGBT people are mostly arrested for extortion purposes and that cases may be altered after the police are bribed (20 Dec. 2013). The IGLHRC country advisor said that police raids on gay "cruising areas" may be a "common phenomenon," but charges are rarely pressed as it is common for the police to be bribed with money or sexual favours (IGLHRC 17 Dec. 2013).

Sources indicate that there are no laws prohibiting discrimination based on sexual orientation (*The Independent* 27 May 2013; US 19 Apr. 2013, 53; *NYTimes* 3 Nov. 2012), or gender identity (US 19 Apr. 2013).

2. Situation

Sources indicate that the gay community in Pakistan is "underground" (*IBTimes* 7 Sept. 2013; Pink News 13 Aug. 2013), and that same-sex relations remain "a secret" (*IBTimes* 7 Sept. 2013). According to Inter-Press Service (IPS), Pakistan's "conservative Muslim society" views homosexuality as a sin (27 Sept. 2013). The US Department of State's *Country Reports on Human Rights Practices for 2012* notes that LGBT people face "severe societal stigma" (19 Apr. 2013, 53). According to a survey conducted by the Washington-based Pew Research Center, 87 percent of respondents in Pakistan said that homosexuality should be rejected by society (4 June 2013). Several sources indicate that gay men and lesbians are rarely open about their sexual orientation (US 19 Apr. 2013, 53; Pink News 13 Aug. 2013; Freedom House 2013).

However, some sources state that society is "tolerant" provided same-sex activity between men occurs "under the veneer of social conformity" (IPS 27 Sept. 2013; BBC 26 Aug. 2013). *The New York Times* notes that despite a "climate of religious conservatism" and a "taboo" towards homosexuality, same-sex activity between men is "common enough," and that in society such relations are not "named" (3 Nov. 2012).

According to a gay man from Karachi who was interviewed by *The Guardian*, for gay men from the "more privileged urban community" it is possible to have a gay social life provided it is "discreet and under the radar," but for LGBT Pakistanis who are poor, not well-educated, and lack Internet access, it is difficult; "there isn't even a consciousness about what it means to be gay" (*The Guardian* 13 Sept. 2011). Similarly, the President of Neengar Society said that there are LGBT social media groups and organized meetings in cities like Lahore, Karachi and Islamabad, but that this culture exists "only among the upper middle class, elite and intellectual elite class of Pakistan" (20 Dec. 2013). *The New York Times* indicates that those who self-identify as LGBT in Pakistan tend to be urban, well-educated, and from the middle or upper-middle classes (3 Nov. 2012).

Media sources describe Karachi as having a "highly vibrant gay subculture" (*IBTimes* 7 Sept. 2013), a "gay party scene" (BBC 26 Aug. 2013), and a number of gay "hotspots" (IPS 27 Sept. 2013). The BBC described Karachi as a "bustling with same-sex activity" in terms of men having sex with men, however it also indicated that it is difficult for gay men to maintain same-sex relationships, because "sex between men will be overlooked as long as no-one feels that tradition or religion are being challenged" (BBC 26 Aug. 2013).

The Neengar Society president said that Lahore, Karachi and Islamabad are "more liberal and accepting" of LGBT people than other areas of Pakistan, but that "no one can openly claim to be gay or lesbian in Pakistan as it can still cost them their life to announce their sexuality in public" (Neengar Society 20 Dec. 2013). Corroborating information could not be found among sources consulted by the Research Directorate within the time constraints of this Response. In terms of community formation, according to the IGLHRC country advisor, there may be "virtual groups" and groups that assemble at "cruising areas" in Lahore, Karachi and Islamabad, but there are not openly gay communities in these cities (IGLHRC 17 Dec. 2013). The Inter Press Service (IPS) interviewed members of the LGBT community that stated "there are no public spaces where we can be ourselves" (IPS 27 Sept. 2013).

2.1 Men Having Sex with Men (MSM)

The IGLHRC country advisor said that it was important to understand LGBT issues within the context of male sexual practices and identities in Pakistan and provided a 2002 study on MSM in Lahore (17 Dec. 2013). The study by the Naz Foundation International, an advocacy group working with MSM in Pakistan (MSMGF, n.d.), of MSM in Lahore states:

The frameworks of male to male sex, often substantially divergent and exclusive, involve males who self-identify as *zenanas* ["a woman in a man's body"], males/men who take the penetrating role in male-to-male sex (known as *giryas* by *zenanas*) accessing *zenanas*, *hirjas*, and at times, adolescent males. These males are usually perceived by *giryas* as feminised males/females which enables the *giryas* to maintain his sense of manliness. Other dynamics include males who access other males for discharge and/or desire to be penetrated, males who desire male to male sex and do not gender themselves and usually indulge in mutual sexual activity--'giving and taking', friends have sex with friends for mutual pleasure, and males in all male institutions. (Naz Foundation 21 Apr. 2002, 4)

The study indicates that "for many males involved in male to male sex, male to male sexual behaviours do not involve a homosexual identity" and stressed that in this context, "gay-identified men [in Lahore] as it is understood in the West" have "high invisibility" (ibid., 4, 6).

The New York Times also indicates that within the Pakistani cultural context, often men who have sex with other men do not self-identify as gay, do not perceive themselves as homosexual, and are not perceived as such by their families (*NYTimes* 3 Nov. 2013). This is provided that they take the dominant role in same-sex encounters (*IBTimes* 7 Sept. 2013). Those males that are perceived to be the recipients in such relations, however, are "highly stigmatized," "usually treated with contempt" (Naz Foundation International 21 Apr. 2002, 4) or "despised and ridiculed" (*IBTimes* 7 Sept. 2013). The BBC notes that because young men in Pakistan are discouraged from having premarital sex with women, men sometimes have their first sexual encounter with other men (26 Aug. 2013). Media sources indicate that Pakistani society and families expect men to get married and have families regardless of sexual orientation (IPS 27 Sept. 2013; BBC 26 Aug. 2013), and that some married men also have male sexual relationships (IPS 27 Sept. 2013). According to the *New York Times*, some Pakistani men may have sex with other men when "they need a break from their wives" or to make money (3 Nov. 2012).

2.2 Lesbians

According to *The Independent*, lesbians are "completely invisible" in Pakistani society (27 Mar. 2013). Similarly, the *New York Times* states that lesbians are "even less visible" than gay men (3 Nov. 2012). The President of Neengar Society said that the situation for lesbians in Pakistan is particularly difficult (20 Dec. 2013). He explained:

Because of the situation of women's rights in Pakistan, lesbians rarely get access to good education, awareness about human rights or even their own sexuality. Lesbians will be forced to get married and they face pressure from both their in-laws and parent's family." (Neengar Society 20 Dec. 2013)

He cited an example in which a lesbian woman was forced by her family to get married and then suffered marital rape (ibid.). Corroborating information for this case could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

3. Discrimination

Both the IGLHRC country advisor and the Neengar Society President said that LGBT people in Lahore, Karachi and Islamabad who are open about their sexual orientation or gender identity are subject to discrimination (IGLHRC 17 Dec. 2013; Neengar Society 20 Dec. 2013). The Neengar Society President said that "it is difficult for a member of LGBT community to access housing, a good job, and health care without concealing their sexuality or taking extra precautions with a fear of discrimination." (ibid.). Similarly, Freedom House states that "[l]egal and societal discrimination against gay men and lesbians is pervasive" (2013).

4. Violence

According to the Neengar Society President, LGBT people in Lahore, Karachi, Islamabad, and elsewhere in Pakistan have been subject to violence (Neengar Society 20 Dec. 2013). He cited as an example the 2012 murder of a transgender woman in a district of Multan (ibid.). According to *Daily The Post*, in September 2012, a man in Karachi was killed because of his sexual orientation; acid was thrown on his face and other body parts and he was shot twice (29 Sept. 2012). Corroborating information related to these two

murders could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

According to the IGLHRC country advisor, LGBT people in these cities are commonly subject to harassment and psychological violence from within and outside the family (IGLHRC 17 Dec. 2013).

He also said that partner violence between same-sex couples occurs frequently (ibid.). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

5. Treatment by Police

The IGLHRC country advisor expressed the opinion that if an LGBT person who faced threats from family or community members went to the police, that the police "may become an accomplice rather than protector" (17 Dec. 2013). Corroborating information could not be found among the sources consulted by the Research Directorate.

According to the President of Neengar Society, incidents of threats or violence from family members against LGBT people are usually unreported and are resolved within the family; there is usually an unspoken agreement that no one will involve the police, and an LGBT person will not report incidents, even if they are "badly beaten" (Neengar Society 20 Dec. 2013). The BBC also indicates that LGBT issues are usually addressed within the family (26 Aug. 2013). According to the IGLHRC country advisor, young men or boys that identify as gay typically face expulsion from the family home if they do not relinquish their sexual orientation (17 Dec. 2013). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

6. Support Services

The Neengar Society President said that there are organizations promoting LGBT rights in Islamabad, Karachi, Lahore and other big cities, and that they provide community space for LGBT people to interact and share their problems (Neengar Society 20 Dec. 2013). He also indicated that there are other organizations that provide support and assistance to LGBT people, though they do not do so publicly and only by referral (ibid.). He also said that there are organizations promoting the specific rights of the transgender community (ibid.). The *New York Times* described an LGBT support group in Lahore that conducts research, provides legal advice, helps LGBT people in "difficult family situations," and operates with a high level of vigilance and secrecy "because of the laws against homosexual acts" (3 Nov. 2012).

Neengar Society provides an emergency shelter to LGBT people who face threats or exclusion (Neengar Society 20 Dec. 2013). According to the President of Neengar, there were a total of 70 LGBT people seeking shelter in 2013; of these, 10 were lesbians, 5 were transgender and 55 were gay or bisexual men (ibid.).

The Neengar Society President noted that LGBT social media sites are prominent in Pakistan (ibid.). Media sources report that the website Queer Pakistan, which was set up in July 2013 as a resource to support the LGBT community, was blocked by Pakistani authorities a few months later (Pink News 25 Sept. 2013; Channel News Asia 21 Oct. 2013; CNN 26 Sept. 2013). According to Channel News Asia, the Pakistan Telecommunication Authority banned the website because it claimed it was "immoral," while the website's creators claimed that the ban was "unconstitutional" since the website did not contain "explicit or offence content" (21 Oct. 2013). CNN reports that the Queer Pakistan website noted "religious, political and social" opposition to its existence on its last entry in September 2013 (CNN 26 Sept. 2013). According to Channel NewsAsia, the website's creators do not want to challenge the ban because they do not want to reveal their identities (Channel News Asia 21 Oct. 2013).

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

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Additional Sources Consulted

Oral sources: Attempts to contact a representative at the Women Employees Welfare Association was unsuccessful within the time constraints of this Response.

Internet sites, including: Amnesty International; ecoi.net; Factiva; Human Rights Watch; Pakistan – Human Rights Commission Pakistan; United Nations – Human Rights Council, Integrated Regional Information Networks, Refworld.

