



RESPONSES TO INFORMATION REQUESTS (RIRs)

[New Search](#) | [About RIRs](#) | [Help](#)

19 July 2010

BGD103390.E

Bangladesh: Treatment of homosexuals including legislation, availability of state protection and support services

Research Directorate, Immigration and Refugee Board of Canada, Ottawa

Legislation

Homosexual acts are illegal according to Section 377 of the Penal Code of Bangladesh (Human Rights Watch [Jan. 2010](#); *Himal Southasian* [Mar. 2008](#); *ibid.* [Dec. 2009](#); ASK 2008, 242). Specifically, Section 377 of the Penal Code of Bangladesh 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 may extend to ten years, and shall also be liable to fine. (Bangladesh 1860)

Ain o Salish Kendra (ASK), a national legal aid and human rights organization based in Dhaka (ASK [n.d.](#)), indicates that although this Section is gender neutral, it is usually assumed to apply only to men (ASK 2008, 242). However, the Sexual Rights Initiative, a coalition of non-governmental organizations (NGOs), notes that the ambiguity in Section 377 means that it could cover a wide range of sexual acts, including heterosexual behaviour ([Feb. 2009](#), Para. 12).

Hijras/Kothis

The Sexual Rights Initiative submitted a report to the United Nations (UN) 4th Universal Periodic Review in February 2009 that illustrates the situation of the "sexual and gender minority communities of Bangladesh" including "gay, lesbian, bisexual, transgender, Intersex, Hijra, Kothi and other ... groups." This report notes that in Bangladesh there are subgroups of people who do not meet the "western" definition of gay, lesbian or bisexual, most notably *hijras* and *kothis* (Sexual Rights Initiative [Feb. 2009](#), Para. 8-11). Sources corroborate that sexual identity in Bangladesh can be hard to categorize (ASK 2008, 241; *The Daily Star* 10 [Aug. 2007](#)). Some sources prefer to use the term MSM (men/males who have sex with men) rather than gay for homosexual or bisexual men (*ibid.*; *Himal Southasian* [Dec. 2009](#); Ashoka 2008).

Hijras, variously described as third gender (ASK 2008, 242; CNN 15 [Sept. 2005](#)), eunuchs (*ibid.*; Sexual Rights Initiative [Feb. 2009](#), Para. 8), intersex (CNN 15 [Sept. 2005](#)), transsexual (*ibid.*) or transgender women (CSBR Winter 2009, 3), are particularly vulnerable to mistreatment and harassment (ASK 2008, 243-244; CSBR Winter 2009, 3; Ashoka 2008). In some cases, without adequate identity documents specifying their gender, hijras are unable to vote or inherit property (ASK 2008, 242).

Kothis are described as low income MSM who may "feminize their behaviour and prefer to assume a more feminized gender role in their sexual relationships," (Ashoka 2008; Sexual Rights Initiative [Feb. 2009](#), Para. 9).

Treatment

Country Reports on Human Rights Practices for 2009 from the United States (US) Department of State states that homosexual acts are illegal in Bangladesh "but in practice the law was rarely enforced" (US 11 Mar. 2010, Sec. 6).

The report by the Sexual Rights Initiative indicates that there has never been a case tried under Section 377, but that it is primarily used to "bully Hijra, Kothi and LGBT [lesbian, gay, bisexual, transsexual] - identified communities" (Feb. 2009, Para. 13). An article in *Himal Southasian*, a regional news and analysis magazine (n.d.), corroborates that Section 377 is "rarely enforced," but also indicates that homosexual sex acts can be punished by deportation, fines, prison sentences of up to 10 years or life imprisonment (*Himal Southasian* Mar. 2008).

In its 2008 annual report, ASK offers the opinion that:

[m]ore significant is the abuse of Section 54 of the Criminal Procedure Code and Section 86 of the Dhaka Metropolitan Police Ordinance (and related provisions in the police ordinances applicable to other Metropolitan cities) which are commonly used to harass persons using public spaces.

...

Bandhu's [a Bangladeshi support service organization] records show that physical assault or beating was the primary form of violence experienced by MSM. Second to physical violence was rape/forced sex, followed by forced eviction from public spaces. The main perpetrators of violence are local thugs or *mastans*, followed closely by members of law enforcement agencies, primarily the police. Harassment by the local population is relatively less common though not entirely absent. (ASK 2008, 242-243)

The article from *Himal Southasian* also notes that there have been reports of "harassment by vigilante groups and the issuance of local fatwas against the LGBT community" (Mar. 2008). *Country Reports 2009* indicates that attacks on lesbians and gay men occur, but are hard to track because victims often request confidentiality (US 11 Mar. 2010, Sec. 6).

In 5 March 2010 correspondence with the Research Directorate, the Refugee Coordinator of Amnesty International (AI) in Toronto provided the following information, which was forwarded to her by a Bangladeshi researcher with AI's International Secretariat in London. The AI Researcher indicated that it is generally unsafe for homosexuals in Bangladesh to publicly reveal their sexual orientation, and they frequently marry persons of the opposite gender to give the appearance of heterosexuality (AI 5 Mar. 2010). She reported that homosexuals whose sexual orientation is known encounter discrimination and ostracism; in addition, social barriers and stigma result in many of them being unable to obtain employment and being reduced to prostitution (ibid.). The leader of a Bangladeshi NGO that focuses on the health care needs of MSM is quoted in an article in *Himal Southasian* as saying that homosexuals are "denied treatment and even possibilities of getting a job" (Dec. 2009).

Support Services

Boys Only Bangladesh (BoB) is a Bangladeshi social organization for gay men (*Himal Southasian* Dec. 2009; *The Daily Star* 10 Aug. 2007). An article in *Himal Southasian* describes BoB as a group that acts as a meeting place for homosexuals, advocates for homosexual rights and equality, and is working for Section 377 to be repealed (Dec. 2009). The Coalition for Sexual and Bodily Rights in Muslim Societies (CSBR) identifies BoB as one of several NGOs that participated in a one-day campaign for sexual and bodily rights (Winter 2009, 2).

Another group that participated in the one-day campaign was the Bandhu Social Welfare Society (BSWS), which organized a debate on sexual rights vs. social norms (CSBR Winter 2009, 2). According to *Himal Southasian*, BSWS provides health care and support to Bengali men who have sex with men (MSM); its activities include assisting

MSM in obtaining employment, and educating society on MSM-related issues and the difficulties confronting homosexuals (Dec. 2009). A factsheet on HIV/AIDS among MSM published by the Asia Pacific Coalition on Male Sexual Health (APCOM) describes the Bandhu Social Welfare Society as the "largest MSM sexual and reproductive health programme in Asia" (2009). A profile of the Bandhu Social Welfare Society founder provides details on the group's activities and its stated goal to use "advocacy, medical care, education and job training to create a society in which MSM and transgender men are treated as equal citizens in Bangladesh" (Ashoka 2008).

An article in *The Daily Star* regarding a workshop on Gender and Sexuality cited one presenter as saying that while gay men in Bangladesh have access to online groups like BoB, lesbian and bisexual women have "no place to go at all" (10 Aug. 2007).

In December 2009, a group of transgender women from south Asian countries, including Bangladesh, created the Asia Pacific Transgender Network (APTN) in order to "champion transgender women's health, legal and social rights" (APTN 23 Dec. 2009).

State Protection

In December 2008 while many other countries signed a United Nations (UN) declaration affirming that international human rights include sexual orientation and gender identity, Bangladesh was one of 57 countries to sign a counter-statement read by Syria that expressed serious concerns about granting rights to "certain persons on the grounds of their sexual interest and behaviours" and among other things suggested that protection of sexual orientation could lead to the normalization of paedophilia (Syria et al 18 Dec. 2008).

In its factsheet on HIV/AIDS in Bangladesh, APCOM provides estimates and statistics on MSM in Bangladesh and notes that there are no anti-discrimination laws that would protect them (APCOM 2009). This is corroborated by ASK's 2008 annual report which states that there is no "specific protection against discrimination for example on the grounds of sexual orientation" (ASK 2008, 242).

The AI Researcher stated that state protection for homosexuals who are victims of violence or subject to threats is unlikely and that in fact, such a request could be seen as a confession to a possible criminal offence (AI 5 Mar. 2010).

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.

References

Ain o Salish Kendra (ASK), Dhaka. 2008. *Human Rights in Bangladesh 2008 (English)*. <www.askbd.org/hr_report2008/22_Sexual.pdf> [Accessed 15 Apr. 2010]

_____. N.d. "About ASK." <http://www.askbd.org/web/index.php?page_id=420> [Accessed 13 Apr. 2010]

Amnesty International (AI), Toronto. 5 March 2010. Correspondence from the Refugee Coordinator providing information from a Bangladeshi researcher with the South Asian team of the International Secretariat of AI.

Ashoka. 2008. "Profile: Shale Ahmed." <<http://www.ashoka.org/sahmed>> [Accessed 19 July 2010]

Asia Pacific Coalition on Male Sexual Health (APCOM). 2009. "Men Who Have Sex with Men (MSM) - Update for ICAAP, Bali." <http://msmasia.org/tl_files/news/ICAAP_News/Bangladesh_MSM_Country_Snapshot%20Aug_2009.pdf> [Accessed 7 June 2010]

Asia Pacific Transgender Network (APTN). 23 December 2009. "World's First Asia Pacific Transgender Network Launched to Champion Health and Rights of Transgender Women in the Region." (IGLHRC) <<http://www.iglhrc.org/cgi-bin/iowa/article/takeaction/partners/1058.html>> [Accessed 9 June 2010]

Bangladesh. 1860. The Penal Code, 1860. <http://www.bdlaws.gov.bd/sections_detail.php?id=11§ions_id=3233> [Accessed 19 Apr. 2010]

Cable News Network (CNN). 15 September 2005. Marianne Bray. "A Eunuch's Tale from the Slums." <<http://edition.cnn.com/2005/WORLD/asiapcf/09/07/india.eye.eunuch/index.html>> [Accessed 19 July 2010]

Coalition for Sexual and Bodily Rights in Muslim Societies (CSBR). Winter 2009. *CSBR E-News: Sexuality in Muslim Societies*, Vol. 3, Issue 2. <http://www.wwhr.org/files/CSBR_Enews_Winter_2009.pdf> [Accessed 8 June 2010]

The Daily Star [Dhaka]. 10 August 2007. Srabonti Narmeen Ali and Elita Karim. "Pushing Boudaries." <<http://www.thedailystar.net/magazine/2007/08/02/sfeature.htm>> [Accessed 7 June 2010]

Himal Southasian [Kathmandu]. December 2009. Delwar Hussain. "Between Invisible Friends." <http://www.himalmag.com/Between-invisible-friends_nw3911.html> [Accessed 14 Apr. 2010]

_____. March 2008. Surabhi Pudasaini. "Against the Order of Nature?" <http://www.himalmag.com/A-fillip-to-queer-rights-Reading-down-Section-377_dnw177.html> [Accessed 7 June 2010]

_____. N.d. "About Us." <http://www.himalmag.com/page=about_us> [Accessed 14 Apr. 2010]

Human Rights Watch. January 2010. "Bangladesh." *World Report 2010: Events of 2009*. <<http://www.hrw.org/en/node/87391>> [Accessed 27 May 2010]

Sexual Rights Initiative. February 2009. "Report on Bangladesh - 4th Round of the Universal Periodic Review." <http://lib.ohchr.org/HRBodies/UPR/Documents/Session4/BD/SRI_BGD_UPR_S4_2009_SexualRightsInitiative_JOINT_upr.pdf> [Accessed 7 June 2010]

Syria et al. 18 December 2008. "Response to SOGI Human Rights Statement, Read by Syria." (IGLHRC) <<http://www.iglhrc.org/cgi-bin/iowa/article/takeaction/resourcecenter/957.html>> [Accessed 7 June 2010]

United States (US). 11 March 2010. Department of State. "Bangladesh." *Country Reports on Human Rights Practices for 2009*. <<http://www.state.gov/g/drl/rls/hrrpt/2009/sca/136085.htm>> [Accessed 13 Apr. 2010]

Additional Sources Consulted

Internet sources, including: Asia Observer, Asian Centre for Human Rights, Asian Human Rights Commission (AHR), AsiaSource, Bangladesh Human Rights Network, British Broadcasting Corporation (BBC), *The Daily Star* [Dhaka], Fédération internationale des ligues des droits de l'homme (FIDH), Freedom House, Fridae, Global Voices, GlobalGayz.com, International Crisis Group, International Gay and Lesbian Human Rights Commission (IGLHRC), International Lesbian, Gay, Bisexual, Transgender and Intersex Association (ILGA), LGBTI Bangladesh, OneWorld.net, Organization for the Protection and Propagation of the Rights of Sexual Minorities (OPPRSM), *Pambazuka News*, *Pink News*, Radio Free Asia, United Nations (UN) Integrated Regional Information Networks (IRIN), Women for Women's Human Rights (WWHR).

The attached reproduction is a copy of an official work that is published by the

Government of Canada. The reproduction has not been produced in affiliation with, or with the endorsement of the Government of Canada.